

WSR 21-10-094
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed May 4, 2021, 3:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-08-093.

Title of Rule and Other Identifying Information: The department is proposing to amend chapter 388-71 WAC, Home and community services and programs; chapter 388-106 WAC, Long-term care services; and chapter 388-113 WAC, Disqualifying crimes and negative actions. The department is also proposing to create a new chapter 388-115 WAC, Consumer directed employer.

Hearing Location(s): On July 6, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or by Skype. Due to the COVID-19 pandemic, hearing may be held via Skype, see DSHS website for most up-to-date information.

Date of Intended Adoption: Not earlier than July 7, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., July 7, 2021.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by May 22, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend, repeal, and create new sections in chapters 388-71, 388-106, and 388-113 WAC, and create new chapter 388-115 WAC, Consumer directed employer, as a reference for the individual providers employed by the consumer directed employer (CDE).

The purpose for making changes is to clarify and consolidate rules related to background checks, disqualifying convictions, and negative actions; and character, competence, and suitability determinations for home and community services, residential care services, and the developmental disabilities administration. These changes will provide better clarity and understanding for the public and contracted entities, reduce the amount of WAC language across programs, and help preserve the health and safety of our clients. Other provisions related to long-term care worker qualifications and a client's choice of provider will also be clarified and consolidated.

Reasons Supporting Proposal: The department is making these changes based on the implementation of CDE and the change from individual providers contracted with the department to individual providers employed by CDE as a result of the passage of ESSB 6199 (chapter 278, Laws of 2018) in 2018.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074,

43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.-515, 74.39A.505, 18.88B.021, and 43.43.837.

Statute Being Implemented: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.-710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, and 43.43.837.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Carson Crepeaux, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-3714; and Enforcement: Karen Fitzharris, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2536.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Angel Sullivan, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-725-2495, fax 360-407-7582, TTY 360-493-2637, email Angel.Sullivan@dshs.wa.gov.

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

Is exempt under RCW 19.85.025(4) because the proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

April 29, 2021
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-14-025, filed 6/24/14, effective 7/25/14)

WAC 388-71-0500 **What is the purpose of this section of the chapter?** The purpose of ~~((this chapter))~~ WAC 388-71-0500 through WAC 388-71-05640 is to describe ~~((the))~~:

(1) ~~((Qualifications of an individual provider, as defined in WAC 388-106-0010))~~ The role of the client as the employer;

(2) Individual provider and agency provider qualifications ~~((of a long-term care worker employed by a home care agency, as defined in WAC 388-106-0010 and chapter 246-335 WAC))~~ and responsibilities;

(3) ~~((Conditions under which))~~ When the department ~~((or the area agency on aging (AAA) will pay for the services of an individual))~~ must or may reject a client's choice of provider ~~((or a home care agency long-term care worker)); and~~

(4) ~~((Training requirements for an))~~ When a client, individual provider, and medicare contracted home care agency ~~((long-term care worker;~~

(5) ~~Client's options for obtaining a long-term care worker. A client, as described in WAC 388-71-0836, eligible to receive long-term care services, or his/her legal representative acting on the client's behalf, may choose to receive personal care services in the client's home from an individual provider or a long-term care worker from a home care agency. If the client chooses to receive services from a home~~

care agency, the agency will assign a long-term care worker employed by the agency to provide services to the client. Individual providers and home care agency long-term care workers are "long-term care workers" as defined in RCW 74.39A.009 and are subject to background checks under RCW 74.39A.056 and 43.20A.710; and

(6) Contracting requirements)) has the right to appeal a department decision.

NEW SECTION

WAC 388-71-0503 What definitions apply to WAC 388-71-0500 through WAC 388-71-05640? "Agency provider" means a long-term care worker who works for a home care agency.

"Area agencies on aging (AAA)" means a contracted entity that aging and long-term support administration (ALISA) grants funds to in order to carry out the functions of the Older Americans Act, general-fund state programs and to provide case management services and supports to individuals eighteen and older who receive medicaid-funded LTC in their own homes.

"Applicant" means a person who is in the process of becoming an in-home long-term care worker.

"Negative actions" are listed in WAC 388-113-0030.

"Background check" means a name and date of birth check or a fingerprint-based background check, or both.

"Background check result" is defined in WAC 388-113-0010.

"Background check central unit (BCCU)" means the DSHS entity responsible for conducting background checks for the department.

"Character, competence, and suitability determination (CC&S)" is defined in WAC 388-113-0050.

"Client" means an individual receiving medicaid-funded in-home long term services from the department.

"Department" means the department of social and health services or its designees.

"Family member" includes, but is not limited to a parent, child, sibling, aunt, uncle, niece, nephew, cousin, grandparent, grandchild, grandniece, grandnephew, or such relatives when related by marriage.

"Fingerprint-based background check" means a search of in-state criminal history records through the Washington state patrol and national criminal history records through the Federal Bureau of Investigation.

"Home care agency (HCA)" means an entity that is licensed by the department of health to provide home care services through a contract arrangement with the department to clients in places of permanent or temporary residence.

"Home care agency long-term care worker" means a long-term care worker who works for a home care agency.

"Individual provider (IP)" as defined in RCW 74.39A.240 limited to individual providers contracted with the department.

"Long-term care worker" as defined in RCW 74.39A.-009(17) but limited to individual providers contracted with the department or hired by the home care agency.

"Name and date of birth check" is a search conducted by the background check central unit (BCCU) of Washington

state criminal history and negative action records using the applicant's name and date of birth.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0505 ((How does a client hire)) Who hires and supervises an individual provider? The client or ((legal)) representative:

(1) Has the primary responsibility for locating, screening, hiring, supervising, and terminating an individual provider, except that this responsibility must not limit the department's authority to reject, terminate the contract of, or deny or terminate payment to an individual provider under this chapter;

(2) Establishes an employer/employee relationship with the individual provider; and

(3) May receive assistance from the ((social worker/case manager)) case manager or other resources in ((this process)) identifying potential providers.

AMENDATORY SECTION (Amending WSR 14-14-025, filed 6/24/14, effective 7/25/14)

WAC 388-71-0510 ((How does a person become an individual provider)) What are the qualifications of a LTC worker providing in-home services? In order to ((become an individual provider, a person)) be qualified as a long-term care worker, an applicant must:

(1) ((Be eighteen years of age or older)) Not have a disqualifying crime or negative action under chapter 388-113 WAC based on a completed background check;

(2) ((Provide the social worker/case manager/designee with:

(a) A valid Washington state driver's license or other valid picture identification; and either

(b) A Social Security card; or

(c) Proof of authorization to work in the United States.

(3) ~~Complete the required DSHS form authorizing a background check~~) Not be disqualified based on a character, competence, and suitability determination;

((4) ~~Disclose any criminal convictions and pending charges, and also disclose civil adjudication proceedings and negative actions as those terms are defined in WAC 388-71-0512;~~

(5) ~~Effective January 8, 2012, be screened through Washington state's name and date of birth background check. Preliminary results may require a thumb print for identification purposes.~~

(6) ~~Effective January 8, 2012, be screened through the Washington state and national fingerprint-based background check, as required by RCW 74.39A.056.~~

(7) ~~Results of background checks are provided to the department and the employer or potential employer unless otherwise prohibited by law or regulation for the purpose of determining whether the person:~~

(a) ~~Is disqualified based on a disqualifying criminal conviction or a pending charge for a disqualifying crime as listed in WAC 388-113-0020, civil adjudication proceeding, or negative action as defined in WAC 388-71-0512 and 388-71-0540; or~~

~~(b) Should or should not be employed as an individual provider based on his or her character, competence, and/or suitability.~~

~~(8) For those providers listed in RCW 43.43.837(1), a second Washington state and national fingerprint-based background check is required if they have lived out of the state of Washington since the first national fingerprint-based background check was completed.~~

~~(9) The department may require an individual provider to have a Washington state name and date of birth background check or a Washington state and national fingerprint-based background check, or both, at any time.~~

~~(10) Sign a home and community-based service provider contract/agreement to provide personal care services to a person under a medicaid state plan or federal waiver such as COPES or other waiver programs)) (3) Complete training and certification requirements listed in WAC 388-71-0520 and WAC 388-71-0523;~~

~~(4) If required, have an active home care aide certification or other qualifying credential by the department of health;~~

~~(5) In addition to the qualifications listed in subsections (1) through (4) of this section, an individual provider must:~~

~~(a) Have a current and valid individual provider services contract with DSHS to provide personal care services;~~

~~(b) Pass the federal exclusion list screening;~~

~~(c) Not have credible allegations of fraud which are pending investigation, unless they fit within the exceptions listed in 42 C.F.R. 455.23;~~

~~(d) Be eighteen years of age or older;~~

~~(e) Provide the department with a valid: Social Security card and picture ID, as determined by DSHS.~~

NEW SECTION

WAC 388-71-0511 When is a background check required of an individual provider or agency provider?

(1) Individual providers are required to complete and pass a name and date of birth background check before initial contracting with the department.

(2) Agency providers are required to complete and pass a name and date of birth background check prior to working with a client.

(3) Individual providers and agency provider workers are required to complete and pass a name and date of birth background check:

(a) Every two years; and

(b) Any time the department or the home care agency employer requests a new check.

(4) In addition to the name and date of birth background check, individual providers and agency providers are required to complete and pass a fingerprint-based background check:

(a) If hired after January 7, 2012, and in accordance with provisional hire rules in WAC 388-113-0109;

(b) If they have lived out of state since the last fingerprint-based background check was completed; or

(c) Any time the department or home care agency requests a new check.

AMENDATORY SECTION (Amending WSR 14-14-025, filed 6/24/14, effective 7/25/14)

WAC 388-71-0513 ((Is)) How does an individual provider or agency provider complete a background check ((required of a long-term care worker employed by a home care agency licensed by the department of health))? ((In order to be a long-term care worker employed by a home care agency, a person must:))

(1) The individual provider or agency provider must:

(a) Complete the ((required DSHS form authorizing a)) background check authorization form;

(b) Answer all questions on the background check authorization form truthfully;

(c) Obtain a fingerprint-based background check result;

(d) Not have any automatically disqualifying conviction(s), pending charge(s), or negative action(s) as described in chapter 388-113 WAC;

(e) Review the background check results and if necessary provide documents or other information to BCCU to correct the background check results; and

(f) When requested by BCCU, provide additional information in order to complete a background check as mandated by statute.

~~(2) ((Disclose any disqualifying criminal convictions and pending charges as listed in WAC 388-113-0020, and also disclose civil adjudication proceedings and negative actions as those terms are defined in WAC 388-71-0512.~~

~~(3) Effective January 8, 2012, be screened through Washington state's name and date of birth background check. Preliminary results may require a thumb print for identification purposes.~~

~~(4) Effective January 8, 2012, be screened through the Washington state and national fingerprint-based background check, as required by RCW 74.39A.056.~~

~~(5) Results of background checks are provided to the department and the employer or potential employer for the purpose of determining whether the person:~~

~~(a) Is disqualified based on a disqualifying criminal conviction or a pending charge for a disqualifying crime as listed in WAC 388-113-0020, civil adjudication proceeding, or negative action as defined in WAC 388-71-0512 and listed in WAC 388-71-0540; or~~

~~(b) Should or should not be employed based on his or her character, competence, and/or suitability.~~

~~(6) For those providers listed in RCW 43.43.837(1), a second national fingerprint-based background check is required if they have lived out of the state of Washington since the first national fingerprint-based background check was completed.~~

~~(7) The department may require a long-term care worker to have a Washington state name and date of birth background check or a Washington state and national fingerprint-based background check, or both, at any time)) It is the responsibility of the home care agency to ensure compliance with subsection (1) of this section for its agency providers.~~

AMENDATORY SECTION (Amending WSR 21-04-037, filed 1/26/21, effective 3/1/21)

WAC 388-71-0515 What are the responsibilities of an individual provider when providing services to a client? An individual provider (IP) must:

(1) Take direction from the client, who is the IP's employer, or when appropriate, from the client's ((~~legal~~) representative;

(2) Understand the client's plan of care that has been signed by the client or ((~~legal~~) representative, which may be translated or interpreted, as necessary, and as requested by the client;

(3) Provide the services as outlined on the client's plan of care, as described in WAC 388-106-0010, according to the client's direction, supervision, and prioritization of tasks within the number of hours authorized;

(4) Accommodate the client's individual preferences and unique needs in providing care;

(5) Contact the client, client's representative and case manager when there are changes that affect the personal care and other tasks listed on the plan of care;

(6) Observe and consult with the client or client's representative, regarding change(s) in health, take appropriate action, and respond to emergencies;

(7) Notify the case manager immediately when the client enters a hospital, or moves to another setting, or when the client has an emergent health and safety need that requires the IP to provide services in excess of the client's authorization or the IP's work week limit;

(8) Notify the case manager immediately in the event of the client's death;

(9) Notify the department or AAA immediately when unable to staff/serve the client;

(10) Notify the department/AAA when the individual provider will no longer provide services. The individual provider must:

(a) Give at least two weeks' notice((;))_; and

(b) Notify the client or the client's representative in writing((;))_; and

(c) Notify the client's case manager((-))_;

(11) Complete and ((~~keep~~) submit accurate time ((~~sheets of authorized/paid hours that are accessible to the social worker/case manager; under WAC 388-106-0130, the department does not pay for informal support provided to the client by anyone, including the IP~~) records, in IPOne, of authorized hours for each day worked; ((~~and~~))

(12) Comply with all applicable laws, regulations, and the individual provider contract;

(13) Have a current background check as described in WAC 388-71-0511 and a current DSHS contract;

(14) Provide services only when the department has approved and authorized payment for services to be provided, except in circumstances where there is an emergent health and safety need; and

(15) Comply with electronic visit verification requirements, when required.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0517 What are the responsibilities of a home care agency when the home care agency long-term care worker is a family member of the client and the client is receiving in-home medicaid-funded personal care or ((~~DD~~) respite services? A home care agency must not bill the department for in-home medicaid-funded personal care or ((~~DD~~) respite services when the agency employee providing care is a family member of the client served, unless approved to do so ((~~through an exception to rule under WAC 388-440-0001. For purposes of this section, family member means related by blood, marriage, adoption, or registered domestic partnership~~)) by the department or exempt as provided in RCW 74.39A.326.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0523 What are the training((+) and certification requirements for individual providers and home care agency long-term care workers? The following chart provides a summary of the training and certification requirements for individual providers and home care agency long-term care workers, including criteria for those providers working limited hours for one person, caring for only one's child or parent, and providing respite services only.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Credential such as certification ((HCA-C)) as a home care aide (HCA)
<p>(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).</p>	<p>ARNP, RN, LPN, HCA, CN-A, ((and allied health)) or other professionals listed in WAC 388-71-0839</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. ((Ten hours through June 30, 2012)) Required twelve hours ((from July 1, 2012 forward per)) under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.</p>	<p>((Not required)) Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839.</p>
<p>(2) An individual provider or home care agency long-term care worker with specific employment history.</p>	<p>((Employed as)) A long-term care worker employed at some point between January 1, 2011 and January 6, 2012 and ((who)) has completed the basic training requirements in effect on date of his or her hire. WAC ((388-71-0840)) 388-71-0839.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Not required.</p>	<p>Required. ((Ten hours through June 30, 2012.)) Twelve hours from July 1, 2012 ((forward per)) under WAC 388-71-0990 and 388-71-0991.</p>	<p>Not required.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Credential such as certification ((HCA-C)) as a home care aide (HCA)
(3) <u>An individual provider((/)) or home care agency long-term care worker.</u>	Contracted with the department or hired by a licensed home care agency to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this ((table)) section.	Required. Two hours ((per)) under WAC 388-71-0860.	Required. Three hours per WAC 388-71-0860.	Required. Seventy hours ((per)) under WAC 388-71-0870 and 388-71-0875.	Required. Twelve hours ((per)) under WAC 388-71-0990 and 388-71-0991.	<u>Home care aide certification required ((per)) under WAC 388-71-0975. Home care aide certification required under WAC 388-71-0975 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).</u>
(4) <u>An individual provider ((with)) who works limited hours for one person.</u>	Contracted individual providing twenty hours or less of care for one person per calendar month and does not meet the criteria in (1) or (2) of this ((table)) section.	Required. Two hours ((per)) under WAC 388-71-0860.	Required. Three hours ((per)) under WAC 388-71-0860.	Required. Thirty hours ((per)) under WAC 388-71-0880.	Not required ((prior to June 30, 2014)).	Not required.
(6) <u>An individual who provides only respite services and works three hundred hours or less in any calendar year.</u>	Contracted individual providing only respite care and works no more than three hundred hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section.	Required. Two hours under WAC 388-71-0860.	<u>An individual who provides only respite services and works three hundred or less in any calendar year.</u>	<u>Contracted individual providing only respite care and works no more than three hundred hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet the criteria in subsection (7) of this section.</u>	Required. Two hours under WAC 388-71-0860.	<u>An individual who provides only respite services and works three hundred hours or less in any calendar year.</u>

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Credential such as certification ((HCA-C)) as a home care aide (HCA)
((5) Parent, step parent, or adoptive parent as individual provider)) (6) An individual provider caring only for his or her biological, step, or adoptive adult child.	((Department paid)) Contracted individual providing care only for his or her adult child ((ONLY and receiving)) that receives services through the ((division of)) developmental disabilities administration and not exempt under (1) or (2) of this (table) section.	Required. Two hours per WAC 388-71-0895.	Required. Three hours ((per)) under WAC 388-71-0895.	Required. Seven hours ((per)) under WAC 388-71-0890.	Not required.	Not required.
((6) Biological, step, or adoptive parent/adult child as individual provider)) (7) An individual provider caring only for his or her biological, step, or adoptive child, or parent.	((Who is a department paid)) Contracted individual providing care only to his or her child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in ((5) and is not exempt under (1) or (2) of this table)) (6) of this section.	Required. Two hours ((per)) under WAC 388-71-0860.	Required. Three hours ((per)) under WAC 388-71-0860.	Required. Thirty hours ((per)) under WAC 388-71-0880.	Required ((for adult)). <u>An individual provider caring only for his or her biological, step, or adoptive child ((per)) or parent under WAC 388-71-0990 and 388-71-0991. Not required for ((parent provider per)) an individual provider caring only for his or her biological, step, or adoptive child under WAC 388-71-1001.</u>	Not required.

AMENDATORY SECTION (Amending WSR 14-14-025, filed 6/24/14, effective 7/25/14)

WAC 388-71-0540 ~~When will the department((, AAA, or department designee deny payment for services of an)) reject your choice of individual provider ((or home care agency long term care worker))?~~ (1) The department((, AAA, or department designee)) will ((deny payment for the services of)) reject an individual provider ((or home care agency provider)) who:

((1) When the services are provided by an employee of the home care agency who is related by blood, marriage, adoption, or registered domestic partnership to the client)) (a) Is the client's spouse, except in the case of an individual provider for a chore services client;

(b) Is the natural, step, or adoptive parent of a minor client aged seventeen or younger;

(c) Is the foster parent providing personal care or skills acquisition training to a child residing in their licensed foster home;

(d) Does not meet the qualifications under WAC 388-71-0510; or

(e) Has had a contract terminated within the last ninety days for not complying with the work week limits of chapter 388-114 WAC.

(2) ((When he or she is the client's spouse, except in the case of an individual provider for a chore services client. Note: For chore spousal providers, the department pays a rate not to exceed the amount of a one person standard for a continuing general assistance grant, per WAC 388-478-0020;

(3) When he or she is the natural/step/adoptive parent of a minor client aged seventeen or younger receiving services under medicaid personal care;

(4) When he or she is a foster parent providing personal care to a child residing in their licensed foster home;

(5) When he or she has had any of the following:

(a) A history of noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

(b) When he or she has a conviction or pending charge for a disqualifying crime listed in WAC 388-113-0020 (1), (2) or equivalent conviction or pending charge as described in WAC 388-113-0020(3).

(c) ~~Been found to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult by court of law or a disciplining authority, including the department of health. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceeding under Title 26 RCW, or proceedings involving a court ordered permanent restraining order or order of protection, either active or expired, against the individual that was based upon abuse, neglect, financial exploitation or mistreatment of a minor or vulnerable adult;~~

(d) A finding of abuse or neglect of a child under RCW 24.44.020 and chapter 388-15 WAC that is:

(i) Listed on the department's background check central unit (BCCU) report; or

(ii) Disclosed by the individual, except for findings made before December, 1998. Findings made before December 1998 require a character, competence, and suitability determination.

(e) A finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult that is:

(i) Listed on any registry, including the department's registry;

(ii) Listed on the department's background check central unit (BCCU) report; or

(iii) Disclosed by the individual, except for adult protective services findings made before October 2003. Findings made before October 2003 require a character, competence, and suitability determination.

(6) Who has registered sex offender status;

(7) Who has had a license, certification, medicaid or medicare provider agreement, or a contract for the care of children or vulnerable adults denied, suspended, revoked, not renewed, or terminated, for noncompliance with state and/or federal regulations;

(8) Who obtained or attempted to obtain a license, certification or contract by fraudulent means or misrepresentation;

(9) Who knowingly, or with reason to know, made a false statement of material fact on his or her application for a license, certification, contract or any data attached to the application, or in any matter involving the department;

(10) Who willfully prevented or interfered with or failed to cooperate with any inspection, investigation, or monitoring visit made by the department, including refusal to permit authorized department representatives to interview clients or have access to their records;

(11) When the client's assessment or reassessment does not identify an unmet need;

(12) Who is terminated by the client (in the case of an individual provider) or by the home care agency (in the case of an agency provider);

(13) Who does not successfully complete applicable training requirements, within the timeframes described in WAC 388-71-0875, 388-71-0880, 388-71-0890 and 388-71-0991. If an individual provider or long-term care worker

employed by a home care agency does not complete required training within the required timeframe, and:

(a) If the worker is not required to be a certified home care aide, then the long-term care worker may not provide care until the training is completed; or

(b) If the worker is required to be a certified home care aide, then the long-term care worker may not provide care until the certification has been granted.

(14) Who does not successfully complete the certification or recertification requirements as described under WAC 388-71-0975; or

(15) Who has had a home care aide certification denied, suspended, or revoked. If the individual is otherwise qualified, payment for services may resume when his or her certification has been reissued.

~~In addition,))~~ The department((, AAA, or department designee may deny payment to or terminate the contract of)) will also reject an individual provider ((as provided under WAC 388-71-0543, 388-71-0546, and 388-71-0551)) when the department believes the individual will be unable to appropriately meet the care needs of the client, including health and safety.

Reviser's note: The unnecessary underscoring 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.

NEW SECTION

WAC 388-71-05410 What are the client's rights if the department rejects their choice of individual provider?

(1) If the department rejects the client's choice of individual provider, the client has a right to:

(a) An administrative hearing to appeal the decision, as described in chapter 388-02 WAC and Title 182 WAC; and

(b) Receive services from another currently contracted qualified individual provider or home care agency provider, or to receive services through other settings the client is eligible for.

(2) The hearing rights provided under this section are rights of the client and not the individual provider.

(3) Denying a request for increased work week limits for an individual provider is not a denial of choice of provider.

(4) For the purpose of an administrative hearing, a "DISQUALIFY" background check result on a Notification of Background Check Result letter from the department's background check central unit indicates a department background check showed a disqualifying crime or negative action under chapter 388-113 WAC. A "DISQUALIFY" result, if admitted into evidence, meets the department's burden to show the applicant has a disqualifying crime or negative action under chapter 388-113 WAC. A party appealing the department's decision to deny their choice of provider can rebut a "DISQUALIFY" result by introducing clear and convincing evidence that the Notification of Background Check Result letter is erroneous. This section does not grant a long-term care worker a right to an administrative hearing to contest the results of a background check or the denial or termination of a contract.

NEW SECTION

WAC 388-71-05415 When will the department deny payment to the home care agency? The department will deny payment to the home care agency for services provided to a department client by an agency provider that it employs who:

- (1) Does not meet the qualifications in WAC 388-71-0510; or
- (2) Is a family member of the client served, except as provided by 74.39A.326.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0543 When may the department(~~(AAA, or department designee deny payment for the services))~~ reject your choice of an individual provider? In addition to (~~mandatory denials of payment under WAC 388-71-0540, the department, AAA, or department designee may deny payment for the services of an individual provider who:~~

- (1) ~~Has been convicted of:~~
 - (a) ~~Any crime that the department determines is reasonably related to the competency of the person to provide care to a client; or~~
 - (b) ~~A crime involving a firearm used in commission of a felony or in any act of violence against a person.~~
- (2) ~~Is engaged in the misuse of alcohol, controlled substances, or legend drugs;~~
- (3) ~~Has committed an act of domestic violence toward a family or household member;~~
- (4) ~~Has been found in any final decision of a federal or state agency to have abandoned, neglected, abused or financially exploited a vulnerable adult, unless the department is required to deny payment under WAC 388-71-0540;~~
- (5) ~~Has had a license for the care of children or vulnerable adults denied, suspended, revoked, terminated, or not renewed unless the department is required to deny payment under WAC 388-71-0540;~~
- (6) ~~Has had any health care provider license, certification or contract denied, suspended, revoked, terminated, even though the license was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;~~
- (7) ~~Has had any residential care facility or health care facility license, certification, contract denied, suspended, revoked, terminated, even though the license, certification or contract was later reinstated after satisfactory completion of conditions or other requirements. This provision also applies to a long-term care worker who voluntarily relinquished a license, certification or contract in lieu of revocation or termination;~~
- (8) ~~Has been enjoined from operating a facility for the care and services of children or adults; or~~
- (9) ~~Has been the subject of a sanction or corrective or remedial action taken by federal, state, county, or municipal officials or safety officials related to the care or treatment of children or vulnerable adults, unless the department is required to deny payment under WAC 388-71-0540))~~ the rea-

sons the department must reject your choice of provider under WAC 388-71-0540, the department may also reject your choice of an individual provider under the conditions listed in WAC 388-113-0050, 388-113-0060, and 388-113-0070 and when the individual provider fails to meet the requirements under WAC 388-71-0515 or the terms of the contract or the employment reference guide.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0561 When does an individual provider have the right to an administrative hearing and how can a hearing be requested? (1) An individual provider has the right to an administrative hearing when the department denies payment to the individual provider because:

- (a) He or she has not been certified by the department of health as a home care aide within the required timeframe; or
 - (b) If exempted from certification, he or she has not completed required training within the required timeframe.
- (2) An individual provider has the right to an administrative hearing when the department terminates the individual provider's contract, or takes other enforcement measures against the individual provider because:
- (a) He or she has not completed required training within the required timeframe; or
 - (b) His or her certification as a home care aide has been revoked by the department of health.
- (3) In an administrative hearing challenging an action under subsection (1) or (2) above, the individual provider may not challenge an action by the department of health that affects the individual provider's certification. Actions by the department of health must be challenged through an appeal to the department of health, as provided in department of health rules.
- (4) To request an administrative hearing, an individual provider must send, deliver, or fax a written request to the office of administrative hearings (OAH). OAH must receive the written request within thirty calendar days of the effective date on the department's notice letter that is served (~~(upon))~~ to the individual provider.
- (5) The individual provider should keep a copy of the request.
- (6) The appeal process will be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 74.39A.-085, chapter 388-02 WAC, Title 182 WAC and this chapter. If there is a conflict between chapter 388-02 WAC, Title 182 WAC and this chapter, this chapter will govern.

TRAINING

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0836 What definitions apply to the long-term care worker training requirements? The following definitions apply to the long-term care worker training requirements:

- (1) **"Activities of daily living,"** (~~(in the context of this chapter;))~~ means self-care abilities related to personal care such as bathing, eating, using the toilet, medication assis-

tance, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

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

~~((**"Certified home care aide"** means a long-term care worker who has obtained and maintains a home care aide certification through the department of health.))~~

(3) **"Challenge test"** means a ~~((challenge))~~ competency test taken for specialty training~~((s))~~ without first taking the class for which the test is designed and ~~((eam))~~ may only be used when basic training is not required.

(4) **"Client"** means an individual receiving in-home services.

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

(6) **"Competency testing"** ~~((is))~~ means evaluating a student to determine if he or she can demonstrate the required level of skill, knowledge, ~~((and/or))~~ and behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training, and the specialty and expanded specialty trainings. Training programs may integrate competency testing within their approved curricula.

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

(8) **"Date of hire"** for determining timeframes related to training and certification, means the date of hire as described in WAC 246-980-010.

~~((**"DDD"**))~~ (9) **"DDA"** refers to the ~~((division of))~~ developmental disabilities administration.

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

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

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

(13) **"Expanded specialty training"** means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or resi-

dents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(14) **"Guardian"** means an individual as defined in chapter 11.88 RCW.

(15) **"Home care aide" or "certified home care aide"** means a long-term care worker who has obtained and maintains a home care aide certification through the department of health.

(16) **"Individual provider" or "IP"** means a person who has contracted with the department to provide personal care or respite care services to persons with functional disabilities under a medicaid state plan program, such as the medicaid personal care or community first choice programs or under a federal medicaid waiver ((such as community options)) program ~~((entry system (COPEs), or other waiver programs)).~~

(17) **"Learning objectives"** ~~((are))~~ means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum developers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

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

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

~~((The following persons are not))~~ (b) Long-term care workers do not include:

~~((1))~~ Persons who are:

(a) Providing personal care services to individuals who are not receiving state-funded services; and

(b) The person is not employed by an agency or facility that is licensed by the state.

(2) Persons employed by:

(a) Nursing homes licensed under chapter 18.51 RCW;

(b) Facilities certified under 42 C.F.R. Part 483;

(c) Residential habilitation centers under chapter 71A.20 RCW;

(d) Hospitals or other acute care settings;

(e) Hospice agencies licensed under chapter 70.127 RCW;

~~(f) Adult day care centers or adult day health centers.~~

~~(3) Persons whose services are exclusively limited to assistance with "instrumental activities of daily living," as that term is defined in WAC 388-106-0010)) (i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers; or~~

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

~~(19) "Personal care services" means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living ((which)) that are provided to the client.~~

~~(20) "Seventy-hour long-term care worker training" means the seventy-hours of required training that a new long-term care worker must complete within one hundred and twenty days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.~~

~~(21) "Specialty training" means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.~~

~~(22) "Training entity" means an organization, including an independent contractor, who ((is providing)) provides or may provide training under this ((section)) chapter using approved curriculum. Training entities may only deliver approved curriculum.~~

~~(23) "Training partnership" means a joint partnership or trust that includes the office of the governor, and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.~~

NEW SECTION

WAC 388-71-0837 How does DSHS determine a long-term care worker's date of hire? (1) The department determines a long-term care worker's date of hire according to WAC 246-980-010.

(2) The date of hire is specific to each long-term care worker. It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-71-0980.

(3) This section does not apply to background check requirements under this chapter.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0839 ((What)) Which long-term care workers are exempt from the seventy hour, thirty hour or twelve hour basic training ((requirement)) requirements?

The following long-term care workers are exempt from the seventy-hour long-term care worker basic training requirement:

~~(1) ((A person already)) An individual employed as a long-term care worker on January 6, 2012, who ((completed)) complied with the basic training requirements in effect on the date of his or her hire;~~

~~(2) ((A person employed as a long term care worker on January 6, 2012, who completes within one hundred twenty days of hire the basic training requirements in effect on the date of his or her hire;~~

~~(3) A person)) An individual previously employed as a long-term care worker who completed the basic training requirements in effect on the date of his or her hire, and was employed as a long-term care worker at some point between January 1, 2011 and January 6, 2012((, this exemption will be verified at time of hire or service begin date));~~

~~((4) An individual provider who worked as a respite provider or who provided care to a minor between January 1, 2011 and January 6, 2012, and who completed the training requirements in effect on the date of his or her hire;~~

~~(5)) (3) Registered nurses, licensed practical nurses, ((nurse technicians, or)) and advanced registered nurse practitioner licensed under chapter 18.79 RCW;~~

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

~~((7) Certified counselors under chapter 18.19 RCW;~~

~~(8) Speech language pathologists or audiologists under chapter 18.35 RCW;~~

~~(9) Occupational therapists under chapter 18.59 RCW;~~

~~(10) Physical therapists under chapter 18.74 RCW;~~

~~((11)) (5) A home health aide who ((is)) was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R., ((Part 483.35)) Sec. 484.36;~~

~~((12)) (6) An individual with special education training ((and)) who has an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and~~

~~((13) Individuals who are in a training program to become credentialed in a category listed from subsection (5) through (10) must complete this training program within one hundred twenty days of hire or service begin date to meet this exemption)) (7) Home care aides (HCAs) certified under chapter 18.88B RCW.~~

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0860 Who must complete orientation and safety training and by when? Unless exempted in WAC 388-71-0839 (1) through ~~((+2))~~ (7), all long-term care workers must complete orientation and safety training prior to providing care to a client.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0870 What is the seventy hour basic training? (1) The seventy-hour long-term care worker basic training ~~((of seventy hours is training that))~~ includes:

(a) The core competencies and skills that long-term care workers need in order to provide personal care services effectively and safely; ~~((and))~~

(b) Practice and demonstration of skills; and

(c) Population specific competencies.

(2) ~~((All seventy hour basic training curriculum must be))~~ DSHS approved ~~((by the department and provided by qualified instructors))~~ seventy-hour basic training curricula.

(3) On-the-job training, as described in WAC 388-71-0932, may be applied to seventy-hour long-term care worker basic training for an amount that must be approved by the department.

(4) The DSHS developed ~~((revised))~~ fundamentals of caregiving ~~((RFOC))~~ (FOC) or another department approved training may be used to teach core basic training but it must include enhancements. Additional student materials are required to ensure the enhancements are well planned and documented for students. Materials must be submitted for approval and approved per WAC 388-71-1026. Examples of enhancements ~~((are))~~ include, but are not limited to:

(a) ~~((Adding))~~ More time for workers to practice skills including:

(i) The mechanics of completing the skill correctly((-);

(ii) Client centered communication and problem solving associated with performing the skill((-);

(iii) The different levels of care required for each skill ~~((+))~~ including independent, supervision, limited, extensive, and total((-);

(iv) Working with assistive devices associated with a skill.

(v) Helpful tips or best practices in working through common client challenges associated with a skill((-); and

(vi) Disease specific concerns or challenges associated with a skill.

~~((In most of these examples, additional student materials would be required to ensure the skill enhancements are well planned and documented for students. Materials must be submitted for approval and approved per WAC 388-71-1026.))~~

(b) Augmenting or adding additional materials, student activities, videos or guest speakers that:

(i) More deeply reinforce and fortify the learning outcomes required for basic training((-);

(ii) Ensure each student integrates and retains the knowledge and skills needed to provide quality basic personal care((-); and

(iii) Prepares workers for the certification testing environment and process.

(c) Enhancements are NOT materials ~~((and/or))~~ or activities that are one or more of the following:

(i) Are out of the scope of practice for a ~~((LTC))~~ long-term care worker such as content clearly written for registered nurses((-);

(ii) Are identical to, or a direct replacement of, those already included in ~~((RFOC.))~~ FOC;

(iii) Do not reinforce Washington state laws associated with client rights and client directed care((-);

(iv) Long-term care workers are not paid to provide((-); and

(v) Are written above a high school reading level.

~~((+))~~ (5) The delivery mode of the seventy-hour long-term care worker basic training may be either in-person instruction or a hybrid of online and in-person modules. One hour of completed classroom instruction or other form of training (such as a video or online course) equals one hour of training.

(a) Online modules must be an instructor led class, such as a webinar, or an online interactive self-paced class that provides clear instructions on how students get questions answered during the course and adheres to the DSHS online class standards posted on DSHS's website.

(b) The in-person portion of hybrid modules must be no less than twelve hours of the total basic training hours and include in-person instruction on the personal care assistance tasks supporting activities of daily living, commonly referred to as skills training.

~~((+))~~ (6) The training entity must establish a way for the long-term care worker to ask the instructor questions. An instructor or representative must be available within twenty-four hours during the business week.

~~((+))~~ (7) There is no challenge test for basic training.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0875 Who must complete the seventy hour basic training and by when? Unless exempt from training in WAC 388-71-0839 (1) through ~~((+2))~~ (7), all long-term care workers must complete core and population specific competencies within one hundred twenty days of

~~((+))~~ the date of hire ~~((for home care agency long-term care workers; or~~

~~((2) From the begin date of the authorization to provide department paid in-home services for a client for individual providers))~~ as described in WAC 246-980-010.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0880 Who must take the thirty hour basic training ~~((instead of the seventy hour basic training))~~ and by when must it be completed? Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through ~~((+2))~~ (7), the following individuals must take the thirty hour basic training under WAC 388-71-0885 ~~((; must be completed within one hundred twenty days from the begin date of the authorization for provision to provide~~

department paid, in-home services by an individual provider, who is caring only for):

~~((1))~~ (1) An individual provider who only:

(i) Cares for his or her biological, step, or adoptive child, or parent(-); or

~~((2))~~ (2) An individual provider who:

(a) Provides care to only one person; and

(b)) (ii) Provides no more than twenty hours of care ((in any calendar month)) for one person who is not the individual provider's biological, step, or adoptive child, or parent.

(2) An individual who provides only respite services to clients not covered under title 71A RCW, works three hundred hours or less in any calendar year and is not exempt from basic training under WAC 388-71-0839.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0888 (~~What are the~~) When do the seventy-hour basic training and certification requirements ((for)) apply to an individual ((provider who is initially hired to provide care for one person, if the authorized monthly hours fluctuate or individual provider begins working for more than one department client)) whose required basic training was previously less than seventy hours? (1) ~~((If an))~~ Individual ((provider is initially hired to provide care for one client and the authorized hours are for more than twenty hours he or she will have to)) providers eligible for limited training under WAC 388-71-0880 and 388-71-0893, who begin to work for a second client who is not their biological, step, or adoptive child or parent, or continue to work for one client whose authorized monthly hours fluctuate above twenty hours per month must:

(a) Complete the seventy hours of basic training((; become certified and complete continuing education even if the authorized monthly hours are later reduced to twenty hours or fewer.

(2) If the individual provider initially starts working for one client and the authorized monthly hours are twenty or fewer, he or she will have to complete the seventy hours of basic training, become certified, and complete continuing education whenever:

(a) The authorized hours increase to more than twenty hours); ((or)) and

(b) ((He or she begins to work for a second department client)) Become a certified home care aide under WAC 388-71-095.

~~((3))~~ Under these circumstances from the point of this change, the individual provider will:

(a) Have an additional one hundred twenty days to complete the seventy hours of training and additional one hundred fifty days to become certified;

(b) Be required to complete continuing education under WAC 388-71-0990; and

(c) Be required to continue to comply with the higher level of training requirements, even if the monthly authorized hours are later reduced to twenty or fewer hours)) (2) Individual providers who provide only respite services and worked more than three hundred hours in any calendar year must

complete the seventy hours of basic training and become a certified home care aide.

(3) Individual providers who previously only provided personal care to their biological, step, or adoptive child or parent through DDA or HCS who begin working for an unrelated client must complete the seventy hour basic training and become a certified home care aide.

(4) When an IP described in subsections (1), (2), or (3) of this section is required to complete the seventy hour basic training and become a certified home care aide, the IP will:

(a) Have one hundred twenty days from the date of the change to complete the seventy hour basic training and two hundred days from the date of the change to become certified; and

(b) Be required to complete continuing education under WAC 388-71-0990.

(5) For the purpose of this section, the date of the change means the date on which the IP:

(a) Began working for a client that is not his or her biological, step or adoptive child or parent;

(b) Exceeded twenty hours of work in one month; or

(c) Exceeded more than three hundred respite hours in one calendar year.

(6) If an IP is required to or chooses to become a certified home care aide and completes the seventy hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain his or her credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to twenty or fewer hours;

(b) He or she no longer works for a second unrelated client; or

(c) The individual works less than three hundred respite hours in a calendar year.

(7) The training and certification requirements for an individual that met the above criteria in subsection (6) does not apply if the individual returns to work only for his or her biological, step, or adoptive parent or adult child.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0890 What are the training requirements for parent providers who are individual providers for their adult children through (~~DDD~~) DDA? Unless exempt from the basic training requirements as defined in WAC 388-71-0839 (1) through ~~((12))~~ (7), a ~~((natural))~~ biological, step, or adoptive parent who is the individual provider for his or her adult child receiving services through the DSHS ~~((division of))~~ developmental disabilities administration must complete the twelve hour parent provider training, as described in WAC 388-71-0895, within one hundred twenty days from the begin date of the authorization to provide department paid, in-home services.

NEW SECTION

WAC 388-71-0893 Who must take the nine hour basic training and by when must it be completed? (1) Unless exempt from the basic training requirements under

WAC 388-71-0839 (1) through (7), an individual provider must take orientation and safety training and nine hours of training if he or she meets the following criteria:

(a) Provides only respite services for individuals with developmental disabilities receiving services under title 71A RCW; and

(b) Works three hundred hours or less in any calendar year.

(2) The individual provider must complete the orientation and safety training before providing care.

(3) The training partnership identified in RCW 74.39A.-360 must offer at least twelve of the fourteen total hours online and five of these online hours must be individually selected from elective courses.

(4) An individual must complete the nine hours basic training required under this section within one hundred twenty days of the long-term care worker's date of hire.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0911 What are the competencies and learning objectives for the core competencies of basic training? ~~((The))~~ Long-term care worker basic training includes core competencies that describe the behavior and skills that a long-term care worker ~~((should))~~ must exhibit when working with clients~~((:))~~ and the learning objectives ~~((are))~~ associated with each competency~~((:))~~ as follows:

(1) Regarding communication~~((:))~~:

(a) Communicate effectively and in a respectful and appropriate manner with clients, family members, and care team members~~((:))~~;

~~((a))~~ (b) Recognize how verbal and nonverbal cues impact communication with the client and care team;

~~((b))~~ (c) Engage and respect the client through verbal and nonverbal communication;

~~((c))~~ (d) Listen attentively and determine that the client, when able, understands what has been communicated;

~~((d))~~ (e) Recognize and acknowledge clients' communication including indicators of pain, confusion, or misunderstanding;

~~((e))~~ (f) Utilize communication strategies to deal with difficult situations; and

~~((f))~~ (g) Recognize common barriers to effective communication and identify how to eliminate them~~((:))~~;

(2) Regarding long-term care worker self-care~~((, take appropriate action to reduce stress and avoid burnout))~~:

(a) Identify behaviors, practices, and resources to reduce stress and avoid burnout;

(b) Recognize common barriers to self-care and ways to overcome them; and

(c) Recognize aspects of a long-term care worker's job that can lead to stress and burnout, common signs and symptoms of stress and burnout; and the importance of taking action to practice self-care to avoid burnout~~((:))~~;

(3) Regarding the competency of effective problem solving, use effective problem solving skills to:

(a) Explain why it is necessary to understand and utilize a problem solving method;

(b) Implement a problem solving process/method; and

(c) Identify obstacles to effective problem solving and ways to overcome them~~((:))~~;

(4) Regarding the competency of client rights and dignity, take appropriate action to promote and protect a client's legal and human rights as protected by federal and Washington state laws including:

(a) Protect a client's confidentiality, including what is considered confidential information, to whom a long-term care worker is allowed or not allowed to give confidential information, and how to respond if a non-care team member asks for confidential information;

(b) Promote client's dignity~~((:))~~ and privacy, and encourage, and support a client's maximum independence when providing care; ~~((and))~~

(c) Maintain a restraint-free environment, including physical, chemical, and environmental restraints. Use common, safe alternatives to restraint use; and

(d) Protect and promote the client's right to live free of abuse, neglect, abandonment, and financial exploitation~~((:))~~;

(5) Regarding the competency of recognizing indicators of abuse and understanding the mandatory reporting requirements, recognize the signs of abuse and report suspected abuse, abandonment, neglect, and financial exploitation:

(a) Describe long-term care ~~((workers'))~~ worker's responsibilities as a mandatory reporter as defined in RCW 74.34.020 through 74.34.053; and

(b) Identify common indications of abuse, abandonment, neglect, and financial exploitation~~((:))~~;

(6) Regarding the competency of client directed care, take appropriate action when following a client's direction regarding his or her care:

(a) Describe a long-term care worker's role in client directed care including determining, understanding, and supporting a client's choices;

(b) Describe the importance and impact of client directed care on a client's independence, self-determination, and quality of life;

(c) Identify effective problem solving strategies that help balance a client's choice with personal safety; and

(d) Report concerns when a client refuses care or makes choices that present a possible safety concern~~((:))~~;

(7) Regarding the competency of cultural sensitivity, provide culturally appropriate care:

(a) Describe how cultural background, lifestyle practices, and traditions can impact care; and

(b) Use methods to determine and ensure that these are respected and considered when providing care~~((:))~~;

(8) Regarding the competency of body mechanics, utilize current best practices and evidence-based methods of proper body mechanics while performing tasks as outlined in the care plan~~((:))~~;

(9) Regarding the competency on fall prevention~~((, prevent or reduce the risk of falls))~~:

(a) Identify fall risk factors and take action to reduce fall risks for a client; and

(b) Take proper steps to assist when a client is falling or has fallen~~((:))~~;

(10) Regarding the competency of skin and body care, use personal care practices that promote and maintain skin integrity:

(a) Explain the importance of observing a client's skin, when to observe it, and what to look for including common signs and symptoms of skin breakdown;

(b) Identify risk factors of skin breakdown;

(c) Observe skin at pressure point locations and report any concerns;

(d) Describe what a pressure ulcer is, what it looks like, and what actions to take if a client appears to be developing or develops a pressure ulcer;

(e) Describe current best practices that protect and maintain a client's skin integrity including position changes when sitting or lying for extended periods, and proper positioning and transfer techniques;

(f) Implement current best practices that promote healthy skin including hygiene, nutrition, hydration, and mobility; and

(g) Identify when to report skin changes and ~~((to whom))~~ who to report them to;

(11) Regarding the competency on long-term care worker roles and boundaries, adhere to basic job standards, expectations, and requirements and maintain professional boundaries:

(a) Identify when, how, and why to obtain information from appropriate sources about a client's condition or disease for which they are receiving services~~((:))~~, and describe how to use this information to provide appropriate, individualized care;

(b) Describe a client's baseline based on information provided in the care plan and explain why it is important to know a client's baseline;

(c) Identify changes in a client's physical, mental, and emotional state through observation;

(d) Report changes from baseline ~~((and/or))~~ and concerns to the appropriate care team member(s);

(e) Identify basic job standards and requirements ~~((e.g.))~~ such as coming to work on time) and describe how maintaining these standards are critical to a client's safety and well-being;

(f) Explain the purpose of a care plan and describe how it is created, used and modified;

(g) Use a client's care plan to direct a long-term care worker's job tasks and any client directed care tasks;

(h) Identify what is required of a long-term care worker, as described in WAC 388-71-0946, prior to performing a nurse-delegated task;

(i) Describe the role of a care team and a long-term care worker's role in ~~((#))~~ the care team;

(j) Describe professional boundaries and the importance of maintaining them; and

(k) Identify signs of unhealthy professional boundaries, barriers to keeping clear professional boundaries, and ways to avoid or eliminate them~~((:))~~;

(12) Regarding the competency on supporting activities of daily living, perform required personal care tasks to the level of assistance needed and according to current best practices and evidence-based guidelines:

(a) Demonstrate, in the presence of a qualified instructor, all critical steps required for personal care tasks including but not limited to:

(i) Helping an individual walk;

(ii) Transferring an individual from bed to wheelchair;

(iii) Turning and repositioning an individual in bed;

(iv) Providing ~~((mouth))~~ oral care;

(v) Cleaning and storing dentures;

(vi) Shaving a face;

(vii) Providing fingernail care;

(viii) Providing foot care;

(ix) Providing a bed bath;

(x) Assisting an individual with a weak arm to dress;

(xi) Putting knee-high elastic stockings on an individual;

(xii) Providing passive range of motion for one shoulder;

(xiii) Providing passive range of motion for one knee and ankle;

(xiv) Assisting an individual to eat;

(xv) Assisting with peri-care;

(xvi) Assisting with the use of a bedpan;

(xvii) Assisting with catheter care;

(xviii) Assisting with condom catheter care; and

(xix) Providing medication assistance~~((:))~~;

(b) In the process of performing the personal care tasks, use proper body mechanics, listen attentively, speak clearly and respectfully while explaining what the long-term care worker is doing, incorporate client preferences, maintain privacy and dignity, support the client's level of ability, and assure ~~((their))~~ his or her comfort and safety;

(c) Appropriately utilize assistive device(s) specified in the care plan;

(d) Describe any safety concerns related to each task and how to address the concerns;

(e) Demonstrate an understanding of bowel and bladder functioning, including factors that promote healthy bowel and bladder functioning, and the signs, symptoms, and common causes of abnormal bowel and bladder function; and

(f) Identify the importance of knowing a client's bowel and bladder functioning baseline and when to report changes~~((:))~~;

(13) Regarding the competency on food preparation and handling, plan and prepare meals using a basic knowledge of nutrition and hydration, incorporating any diet restrictions or modifications, and prevent food borne illness by preparing and handling food in a safe manner:

(a) Describe how nutrition and hydration can impact a client's health;

(b) Plan, shop, and prepare meals for a client according to the guidelines of good nutrition and hydration, incorporating any dietary requirements and restrictions ~~((per))~~ from the care plan and client preferences;

(c) Describe common signs of poor nutrition and hydration, and when to report concerns and ~~((to whom))~~ who to report concerns to;

(d) Understand that diet modification is required for certain health conditions, including dysphagia, and describe how to identify diet modifications required for a client;

(e) Recognize when a client's food choices vary from specifications on the care plan, describe when ~~((and))~~ to ~~((whom))~~ report concerns and who to report ~~((concerns))~~ them to;

(f) Describe what causes food borne illness, the risks associated with food borne illness and examples of potentially hazardous foods;

(g) Describe appropriate food handling practices, including:

(i) Avoiding cross contamination from one food to another(;);

(ii) Safe storage requirements for cooling of leftover foods, including:

(A) Depth(;);

(B) Types of containers(;) and temperatures(;);

(C) The need to maintain food at proper temperatures to limit bacterial growth; and ((what are the))

(D) Safe food storage and holding temperatures for both cold and hot foods(;);

(iii) Best practices for thawing and re-heating food(;) and

(iv) Using clean gloves (if possible), and clean utensils when preparing food;

(h) Describe the importance and correct procedure for cleaning and disinfecting food contact surfaces; and

(i) Describe why a long-term care worker with certain types of illnesses ((and/or)), symptoms, or both must not prepare food(;);

~~((Long-term care workers who complete DSHS approved basic training meet the training requirements for adult family homes in RCW 70.128.250.))~~

(14) Regarding the competency of medication assistance, appropriately assist with medications:

(a) Identify what a long-term care worker is allowed and not allowed to do when assisting with medications as described in chapter 246-888 WAC;

(b) Define terms related to medication assistance including prescription drugs, over the counter medications, and as needed (PRN) medications, medication side effects, and drug interactions;

(c) Identify common symptoms of medication side effects and when and to whom to report concerns;

(d) Store medications according to safe practices and the label instructions;

(e) Describe, in the proper sequence, each of the five rights of medication assistance; and

(f) Identify what to do for medication-related concerns, including describing ways to work with a client who refuses to take medications, identifying when and to whom to report when a client refuses medication or there are other medication-related concerns, and identifying what is considered a medication error ((and when and to whom it must be reported-)), when to report a medication error, and who to report it to;

(15) Regarding the competency of infection control and blood-borne pathogens including HIV/AIDS, implement best practices to prevent and control the spread of infections:

(a) Identify commonly occurring infections, ways that infections are spread, and symptoms of infections;

(b) Describe the purpose, benefit, and proper implementation of standard precautions in infection control;

(c) Implement current best practices for controlling the spread of infection, including the use of hand washing and gloves;

(d) Demonstrate proper hand washing and putting on and taking off gloves;

(e) Identify immunizations that are recommended for adults to reduce the spread of virus and bacteria;

(f) Describe laundry and housekeeping measures that help in controlling the spread of infection;

(g) Describe proper use of cleaning agents that destroy micro-organisms on surfaces;

(h) Describe what blood-borne (BB) pathogens are and how they are transmitted;

(i) Identify the major BB pathogens, diseases, and high-risk behaviors for BB diseases;

(j) Identify measures to take to prevent BB diseases;

(k) Describe what to do if exposed to BB pathogens and how to report an exposure;

(l) Describe how HIV works in the body;

(m) Explain that testing and counseling for HIV/AIDS is available;

(n) Describe the common symptoms of HIV/AIDS;

(o) Explain the legal and ethical issues related to HIV including required reporting, confidentiality and nondiscrimination; and

(p) Explain the importance of emotional issues and support for clients and long-term care workers(;);

~~((Long-term care workers who complete DSHS approved basic training meet the four hours of AIDS education as required by the department of health in WAC 246-980-040.))~~

(16) Regarding the competency on grief and loss, support yourself and the client in the grieving process:

(a) Define grief and loss;

(b) Describe common losses a client and long-term care worker may experience;

(c) Identify common symptoms associated with grief and loss;

(d) Describe why self-care is important during the grieving process; and

(e) Identify beneficial ways and resources to work through feelings of grief and loss;

(17) Long-term care workers who complete DSHS approved basic training meet the training requirements for adult family homes in RCW 70.128.250;

(18) Long-term care workers who complete DSHS approved basic training meet the four hours of AIDS education as required by the department of health for the home care aide requirement in WAC 246-980-040; and

(19) Regarding the competency on identifying indicators of hearing loss, which may be part of the basic training or population specific hours:

(a) Identify common symptoms associated with hearing loss; and

(b) Identify what to do for hearing loss related concerns, including describing ways to communicate with a client who is experiencing hearing loss and identifying when and to whom to report when a client's hearing ability changes.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0932 What is on-the-job training? (1) Effective July 1, 2012, on-the-job training is a method of training (~~when~~) where the long-term care worker success-

fully demonstrates in the seventy-hour long-term care worker basic training, any or all of the core competencies for personal care or infection control skills (~~included in the core basic training~~) while working with a client (~~versus~~) on the job, instead of in a practice training setting.

(2) On-the-job training (~~is~~) must be provided by a qualified instructor as described in WAC 388-71-1055, who directly observes, coaches, and reinforces skills training for up to two long-term care workers at a time. The instructor providing the on-the-job training:

(a) Does not have to be the instructor who has taught the core competency training;

(b) (~~Cannot~~) Must not be someone whose primary job duty is providing direct care to clients; (~~or~~) and

(c) (~~Cannot~~) May be the immediate supervisor in a home care agency of the long-term care worker receiving (~~the on-the-job~~) this training.

(3) The (~~person~~) instructor overseeing (~~on-the-job~~) this training must:

(a) Submit DSHS required forms and become an approved instructor for the core competency of basic training; and

(b) Verify on a DSHS approved skills checklist or other department approved form, the long-term care worker's successful completion of the demonstrated skills.

(4) For the person receiving on-the-job training, the hours spent in on the job training may count (~~for up to twelve hours~~) toward the completion of basic training requirements.

(5) The training program (~~shall offer~~) must get department (~~approved~~) approval for the on-the-job training hours as part of the seventy hour training.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0936 What is nurse delegation core training? (1) Nurse delegation core training is the required course a nursing assistant, certified or registered, or certified home care aide must successfully complete before being delegated a nursing task.

(2) Only the curriculum developed by DSHS, "Nurse Delegation for Nursing Assistants and Home Care Aides" meets the training requirement for nurse delegation core training.

(3) DSHS must approve the instructors for nurse delegation core training prior to an instructor offering a course.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0953 (~~Can~~) May nurse delegation core and specialized diabetes training occur in the same year as the seventy-hour long-term care worker basic training? Nurse delegation core and specialized diabetes training (~~can occur~~) may be required in the same year as basic training if (~~required to be able to perform~~) delegated tasks need to be performed. If (~~this occurs, the maximum of twelve hours for this training can be applied towards the continuing education requirement for the following year. Nurse delegation core and specialized diabetes trainings do not apply towards~~) completed within one hundred and twenty

days of hire, the nurse delegation core and specialized diabetes training hours may be applied towards the population specific component of the seventy-hour long-term care worker basic training.

NEW SECTION

WAC 388-71-0971 Prior to hiring a long-term care worker, what training and certification requirements must be reviewed by the home care agency or department? Before hiring a long-term care worker, the home care agency or the department acting on behalf of the client, as defined under RCW 74.39A.009; or the consumer directed employer under chapter 74.39A RCW; must review and verify the highest level of training or certification achieved by the individual.

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

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

(b) Confirm that the individual has completed continuing education as required under WACs 388-71-0990 and 388-71-0991.

(2) When the individual is exempt from the seventy-hour long-term care worker training and certification requirements under WAC 388-71-0839, the home care agency, CDE, or department must review and verify the following:

(a) Documents demonstrating the individual's exemption status from training and certification which may include:

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

(ii) Letter from a former or current employer documenting work history during the exemption period described in WAC 388-71-0839;

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

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

(v) Documentation showing completion of the basic training as required under WAC 388-71-0839;

(b) For the year in which they are hired, documentation of completion of twelve hours of continuing education, or information on when the continuing education must be completed, that complies with WAC 388-71-0990 and WAC 388-71-0991.

(3) Individuals who have worked as long-term care workers in the past, but who did not complete the basic training or certification required at the time, may be eligible to have their date of hire reset in accordance with this section and WAC 388-71-0980.

(a) Individuals who are eligible to reset their date of hire as provided in WAC 388-71-0980 must submit a new application and fee to the department of health and adhere to the training or certification requirement under this chapter.

(b) Individuals who are not eligible to reset their date of hire as provided in WAC 388-71-0980 must not be paid to

provide personal care assistance until they complete required training and become certified as a long term care worker.

(4) The home care agency, or the department acting on behalf of the client, as defined under RCW 74.39A.009; or the consumer directed employer under chapter 74.39A RCW must comply with continuing education documentation requirements under WAC 388-71-0970.

(a) Individuals who worked in the previous year in a long term care setting during the previous calendar year, are held accountable for their continuing education completion by their new employer on the date of hire and shall provide at new hire documentation of their continuing education compliance during the calendar year in which they are hired; or

(b) Individuals who work for multiple employers or move between employers shall on the date of hire, provide documentation of continuing education compliance for year in which they are hired, if hired after their birthdate.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0975 Who is required to obtain certification as a home care aide, and by when? In order to be authorized to provide department paid in-home services, all long-term care workers (~~(, who do not fall within the exemptions under the department of health WAC 246-980-070,)~~) must obtain home care aide certification (~~(within one hundred and fifty days of hire or begin date of the authorization to provide department paid in-home services effective January 7, 2012))~~) as provided in chapter 246-980 WAC.

NEW SECTION

WAC 388-71-0977 Once an individual is required to obtain certification as a home care aide, may that individual revert to exempt status? (1) If an individual is required to or chooses to become a certified home care aide and completes the seventy hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain his or her credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to twenty or fewer hours;

(b) He or she no longer works for a second unrelated client; or

(c) The individual works less than three hundred respite hours in a calendar year.

(2) The training and certification requirements for an individual that met the above criteria in subsection (1) of this section does not apply when the individual returns to work only for his or her biological, step, or adoptive parent, or adult child.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0980 (~~(Can)~~) May a home care agency or client employ a long-term care worker who has not completed the seventy hour basic training (~~(and/or)~~) or certification requirements? (1) If an individual has previously worked as a long-term care worker, but did not com-

plete the training or certification requirements under RCW 18.88B.041, RCW 74.39A.074, and RCW 74.39A.096, or this chapter, a home care agency or client (~~(cannot)~~) must not employ (~~(an)~~) the individual to work as a long-term care worker (~~(if)~~) until the individual has (~~(previously worked as a long-term care worker and has not completed applicable training and/or certification requirements within the required timeframe. Such individual may be employed by a home care agency or client to work as a long-term care worker only after applicable training and/or certification requirements are met. The department is authorized by RCW 74.39A.086 to take enforcement action for noncompliance related to training and/or certification requirements)~~) completed the required training certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The date of hire may be reset once for each home care applicant after a minimum of one year has passed since the initial date of hire.

(3) Individuals who meet the criteria in subsection (2) of this section are allowed a new one hundred twenty days to complete the seventy-hour long-term care worker basic training and a new two hundred days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (3) of this section must submit a new application and fee to the department of health.

NEW SECTION

WAC 388-71-0981 Is the department authorized by RCW 74.39A.086 to take enforcement action for noncompliance related to training and certification requirements? The department is authorized under RCW 74.39A.-086 to take enforcement action for noncompliance related to training and certification requirements.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0985 What is continuing education? (1) Continuing education is (~~(additional relevant)~~) annual training designed to (~~(keep current)~~) promote professional development and increase a person's knowledge, expertise, and skills. DSHS must approve continuing education curricula and instructors. The same continuing education course may not be repeated for credit unless it is a new or more advanced training on the same topic, or there is a demonstrated or documented need for retraining. Exceptions to this (~~(are first aid, CPR, and blood borne pathogens. Nurse delegation core and nurse delegation specialized diabetes training may be used to count towards continuing education)~~) include the following topics:

(a) Blood-borne pathogens and infection control;

(b) CPR training;

(c) First aid training;

(d) Food handling training;

(e) Health Insurance Portability and Accountability Act (HIPAA);

(f) Medication assistance;

(h) Aging sensitivity;

(i) Client rights;

(j) Clients safety; and

(k) Abuse and neglect identification and mandatory reporting.

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

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

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0990 Who is required to complete continuing education training, how many hours (~~(of continuing education)~~) are required each year, and under what circumstances may the long-term care worker not be paid? (1) ~~((From January 1, 2012 through June 30, 2012, individual providers and home care agency long-term care workers whose birth date occurs January 1 through June 30, and the required basic training was previously completed must complete ten hours of continuing education. If ten hours of continuing education were completed between January 1, 2012 through June 30, 2012 for an individual provider or home care agency long-term care worker, regardless of their birth date, then the continuing education requirements have been met for 2012.~~

~~((2) Effective July 1, 2012,))~~ The following long-term care workers must complete twelve hours of continuing education by their birthday each year:

(a) Certified home care aides (~~(must complete twelve hours of continuing education each year after obtaining certification as described in department of health WAC 246-980-110 and 246-12-020(3)).~~);

~~((3))~~ (b) If exempt from home care aide certification as described in RCW 18.88B.041, (~~(aH))~~ long-term care workers must complete twelve hours of continuing education each year worked unless exempt from continuing education as described in WAC 388-71-1001.

~~((4))~~ (2) A long-term care worker or certified home care aide who did not complete the continuing education requirements by the timeframe described in (~~(1) above~~) this section or in WAC 388-71-0991 (~~(cannot)~~) must not be paid to provide care after that date and (~~(cannot)~~) must not be reinstated as a long-term care worker until (~~(they complete)~~) the worker has completed the continuing education requirements.

~~((5))~~ (3) One hour of completed classroom instruction or other form of training (such as a video or online course) equals one hour of continuing education. The training entity must establish a way for the long-term care worker to ask the instructor questions.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-0991 When must a long-term care worker or certified home care aide complete continuing education? (1) ~~((Effective July 1, 2012,))~~ All long-term care workers (~~(and)~~) who are certified home care aides must

~~((complete))~~ comply with the continuing education requirements (~~(described in WAC 388-71-0990 by their birthday)~~) under chapter 246-980 WAC.

~~((For))~~ Long-term care workers, who are (~~(required to be certified, if the first renewal period is less than a full year from the date of certification, no continuing education will be due for the first renewal period))~~ exempt from home care aide certification as described in RCW 18.88B.041, unless exempt from continuing education as described under WAC 388-71-1001 must complete the annual continuing education requirements for each calendar year in which they performed any work as a long-term care worker.

~~((For))~~ Long-term care workers, who are (~~(biological, step, or adoptive adult child, continuing education is to be completed by their birthday in the year following completion of basic training)~~) exempt from home care aide certification as described in RCW 18.88B.041, unless exempt from continuing education as described under WAC 388-71-1001 and who have not worked in long-term care for a calendar year or longer, are eligible to return to work as a long-term care worker when the continuing education hours required under this section are completed within the following time-frames:

(a) On or before their birthday, if their birthday will occur after the date they return to work; or

(b) Within forty-five calendar days of the date they returned to work, if their birthday occurred took place on or before the day they returned to work.

(i) If this forty-five calendar day time period allows workers to complete their continuing education in January or February of the following year, the hours of credit earned will be applied to the year in which they were hired.

(ii) Continuing education requirements for the calendar year after the year they were hired must be completed as required under WAC 388-71-0990, even if the long-term care worker must complete twenty-four hours of classes within a very short time.

(4) If the renewal period following initial certification as a home care aide or nursing assistant (NA-C), is less than a full year from the date of certification, no continuing education will be due for the first renewal period. The long-term care worker must complete continuing education requirement for the second renewal period on or before their birthdays.

(5) For long-term care workers who are caring for a biological, step, or adoptive parent, continuing education must be completed on or before by their birthday in the year after basic training was completed. If these long-term care workers have not worked in long-term care for a calendar year or longer they can complete their continuing education requirement as provided in subsection (3) of this section.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1001 (~~(What)~~) Which long-term care workers are exempt from the continuing education requirement? Unless voluntarily certified as a home care aide, continuing education is not required for any of the following:

(1) Individual providers caring only for ~~((his or her))~~ their biological, step, or adoptive ~~((son or daughter))~~ child; ~~((and))~~

(2) ~~((Before June 30, 2014, an))~~ Individual ~~((provider who))~~ providers that:

(a) ~~((Provides))~~ Provide care to only one person~~((;))~~ and ~~((b) Provides))~~ provide no more than twenty hours of care in any calendar month; or

(b) Individual providers who only provide respite services and work three hundred hours or less in any calendar year;

(3) Before January 1, 2016, a long-term care worker employed by a community residential service business; and

(4) Registered nurses and licensed practical nurse licensed under chapter 18.79 RCW.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1026 What must be submitted to DSHS for curriculum approval? DSHS developed curricula are not required to be submitted to the department for approval unless the curriculum is being modified in any manner by the training entity.

(1) If a training entity modifies a department developed curricula in any manner, the training entity must submit the curriculum to the department for approval.

(2) Training must not be offered before receiving department curriculum and instructor approved.

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

~~((4))~~ **(4) For orientation and/or safety training:**

(a) ~~((Effective January 7, 2012,))~~ Submit an outline of what will be covered in each training offered ~~((for example,))~~ including a table of contents ~~((or a class syllabus showing))~~ that shows where the required introductory topics as listed in WAC 388-71-0846 for orientation and WAC 388-71-0855 for safety training are covered in the training.

(b) Department required orientation and safety training application forms must be submitted to the department at least forty-five days in advance of when the training is expected to be offered. ~~((Training cannot be offered before receiving department curriculum and instructor approval.))~~

~~((2))~~ **(5) For continuing education:**

(a) ~~((Effective July 1, 2012, for))~~ Continuing education curriculum delivery models must only include instructor led ~~((and)),~~ online ~~((learning, submit a summary that includes the topic, a brief description of what it will cover, and a course outline. Also include the number of training hours. For online training courses, submit a description of how the instructor or training entity will assess that the students have completed the materials and integrated the information being taught. Department required continuing education training application forms must be submitted at least forty-five days in advance of when the training is expected to be offered. The trainings cannot be offered before receiving department curriculum and instructor approval as well as the unique code assigned by the department for each curriculum))~~ instructor led (such as a webinar), or an online interactive self-paced

class that provides clear instructions on how students get questions answered during the course.

(b) For continuing education classes, submit on a department developed form, a summary that includes the topic, a brief description of what it will cover, a course outline, and the number of training hours.

(c) For online training courses, submit the information requested in (b) of this subsection and submit a description of how the instructor or training entity will assess that the students have completed the materials and integrated the information being taught.

(d) Department required continuing education training application forms must be submitted at least forty-five days in advance of when the training is expected to be offered.

~~((3))~~ **(6) For seventy-hour long-term care worker basic training, the thirty hour basic training, and the twelve hour parent provider training:**

(a) If the instructor or training entity ~~((wants to use))~~ uses the DSHS developed ~~((revised))~~ fundamentals of caregiving learner's guide or its substitute with enhancements, they must submit the DSHS required form with all required information. ~~((Curricula must be submitted to DSHS for approval of one or both sections (core competencies and population specific competencies) of the seventy hours required for basic training, for the thirty hour basic training, and for the twelve hour parent provider training. When submitting one or both sections of the basic training curriculum for DSHS approval, it must at a minimum include:))~~

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

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

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

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

(iv) Demonstration skills checklists for the personal care tasks described in WAC 388-71-0911 (12)(a) and (b), and infection control skills (hand washing and putting on and taking off gloves);

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

(A) The goals and objectives;

(B) ~~((How that section will be taught including))~~ Methods of teaching ~~((methods and)),~~ including learning activities that incorporate adult learning principles;

(C) Methods instructors will use to determine whether each long-term care worker understands the material covered and can demonstrate all skills;

(D) A list of sources or references~~((;))~~ that were used to develop the curriculum~~((;))~~ and if the primary source or refer-

ence is not a published citation, the instructor must provide detail on how the content was established as evidence based(=);

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

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

~~((vi) In addition, for)~~ (c) Curricula (~~(being)~~) submitted for the core competency section of the basic training as described in WAC 388-71-0911(~~(=the curriculum)~~) must include how much time long-term care workers will be given to practice skills and how instructors will evaluate and ensure each long-term care worker can proficiently complete each skill.

~~((vii))~~ (d) Entities submitting curriculum for population specific basic training must submit their own list of competencies and learning objectives used to develop the population specific basic training curriculum.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1055 What are the minimum qualifications for an instructor (~~(of the seventy hour)~~) for basic (~~(training (core and population specific training))~~) (including thirty hour and twelve hour DDA parent providers), (~~(thirty hour training, twelve hour DDD parent provider training)~~) population specific, on-the-job (~~(training)~~), nurse delegation core (~~(training)~~), and nurse delegation specialized diabetes training? An instructor for basic (~~(training (core and population specific training))~~) (including thirty hour and twelve hour DDA parent providers), population specific, on-the-job (~~(training)~~), nurse delegation core (~~(training)~~), and nurse delegation specialized diabetes training must meet the following minimum qualifications:

(1) (~~General qualifications:~~

~~(a))~~ Twenty-one years of age; (~~and~~

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

~~((2))~~ (3) Meets one or more of the following education (~~and~~) or work experience(=

~~(a)) requirements upon initial approval or hire(~~(=an instructor must)~~):~~

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

~~(ii) Have))~~ (b) Has an associate degree or higher degree in the field of health or human services and six months of professional or caregiving experience within the last five years in an adult family home, (~~(boarding home)~~) enhanced services facility, assisted living facility, supported living through (~~(DDD)~~) DDA, or home care setting; or

~~((iii) Have))~~ (c) Has a high school diploma, or equivalent, and one year of professional or caregiving experience

within the last five years in an adult family home, (~~(boarding home)~~) enhanced services facility, assisted living facility, supported living through (~~(DDD)~~) DDA, or home care setting(=);

~~((3))~~ (4) Meets the following teaching experience requirements:

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

(b) (~~(Must have)~~) Forty hours of teaching basic training while being mentored by an instructor who (~~(meets these qualifications, and must attend)~~) is approved to teach basic training;

(5) Except for instructors for nurse delegation core and diabetes training, completion of a class on adult education that meets the requirements in WAC 388-71-1066(=);

~~((4) The instructor must be)~~ (6) Experienced in caregiving practices and (~~(capable of demonstrating)~~) demonstrates competency with respect to teaching the course content or units being taught;

~~((5))~~ (7) Instructors who will administer tests must have experience or training in assessment and competency testing; and

~~((6) An instructor)~~ (8) Community instructors for nurse delegation core and specialized diabetes trainings must have a current Washington state (~~(RN)~~) registered nurse (RN) license in good standing without practice restrictions.

Reviser's note: The unnecessary underscoring 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.

NEW SECTION

WAC 388-71-1064 What are the minimum qualifications for community instructors for adult education training using DSHS curriculum? (1) The minimum qualifications for community instructors of adult education training using DSHS curriculum, in addition to the general qualifications in WAC 388-71-1055 (1) and (2), include:

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

(b) Education:

(i) Has a bachelor's degree or is a registered nurse with at least one year of education in seminars, conferences, continuing education, or in college classes in subjects directly related to adult education, such as, but not limited to English as a second language (ESL), adult basic education, and adult secondary education (one year of education equals twenty-four semester credits in a semester system, thirty-six quarter credits in a quarter system, or at least eighty hours of seminars, conferences, and continuing education); and

(ii) Successful completion of the DSHS adult education training curriculum prior to beginning to train others;

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

(i) Two years of experience teaching long-term care workers; or

- (ii) Two hundred hours of experience teaching adult education or closely related subjects;
 - (d) Successful completion of the DSHS instructor qualification/demonstration process; and
 - (e) Instructor approved and contracted by the department as a community instructor.
- (2) Instructors that administer tests must have experience or training in assessment and competency testing.

AMENDATORY SECTION (Amending WSR 13-02-023, filed 12/20/12, effective 1/20/13)

WAC 388-71-1066 What must be included in a class on adult education and which instructors must complete it? (1) A class on adult education must include content, student practice, and evaluation of student skills by the instructor in:

- ~~((1))~~ (a) Adult education theory and practice principles;
- ~~((2))~~ (b) Instructor facilitation techniques;
- ~~((3))~~ (c) Facilitating learning activities for adults;
- ~~((4))~~ (d) Administering competency testing; and
- ~~((5))~~ (e) Working with adults with special training needs ~~((for example,))~~ like limited English as a second language ~~((or))~~ proficiency, learning ~~((or literacy issues))~~ disabilities, or both.

(2) Instructors who request approval to teach either core basic training, specialty training as described in chapter 388-112A, or both, must complete the DSHS adult education class or an adult education class that meets the criteria in subsection (1) of this section and provide a copy of the certificate of completion.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

WAC 388-106-0035 May I receive personal care services through any of the long-term care programs when I am out of the state of Washington? (1) You may receive personal care assistance through any long-term care programs in WAC 388-106-0015 subsections (1) through (5) when temporarily traveling out of state for less than thirty days, as long as your:

- (a) Individual provider is contracted with the state of Washington or an employee of the consumer directed employer;
- (b) Travel plans are coordinated with your case manager prior to departure;
- (c) Services are authorized on your plan of care prior to departure; and
- (d) Services are strictly for your personal care and do not include your provider's travel time, expenses.

(2) You may not receive personal care services outside of the United States.

AMENDATORY SECTION (Amending WSR 15-01-085, filed 12/16/14, effective 1/16/15)

WAC 388-106-0040 Who can provide long-term care services? The following types of providers can provide long-term care services:

(1) Individual providers (IPs), who provide services to clients in their own home. ~~((IPs must meet the requirements outlined in WAC 388-71-0500 through 388-71-05640.))~~

(2) Home care agencies that provide services to clients in their own home. Home care agencies must be licensed under chapter 70.127 RCW and chapter 246-335 WAC and contracted with area agency on aging.

(3) Residential providers, which include licensed adult family homes, enhanced services facilities, and assisted living facilities, that contract with the department to provide assisted living, adult residential care, and enhanced adult residential care services (which may also include specialized dementia care).

(4) Providers who have contracted with the department to perform other services.

(5) In the case of new freedom consumer directed services (NFCDS), additional providers meeting NFCDS HCBS waiver requirements contracting with a department approved provider of fiscal management services.

AMENDATORY SECTION (Amending WSR 13-18-039 and 13-17-125, filed 8/29/13 and 8/21/13, effective 10/1/13)

WAC 388-106-1445 How is the amount of the individual budget determined? The department will calculate your individual budget amount after you are assigned a number of monthly hours resulting from completion of the comprehensive assessment reporting and evaluation tool, CARE. The calculation will be based on the average wage, including a mileage allowance, as determined by the collective bargaining agreement for individual provider personal care ~~((paid by the department))~~ multiplied by the number of units generated by the assessment, multiplied by a factor of .93, plus an amount equal to the average per participant expenditures for nonpersonal care supports purchased in the COPES waiver.

AMENDATORY SECTION (Amending WSR 17-08-065, filed 3/31/17, effective 5/1/17)

WAC 388-106-1458 How do I create and use my spending plan? (1) You create your spending plan with the assistance of the care consultant using the new freedom self-assessment and the CARE assessment.

(2) The spending plan must be approved by both you and the care consultant.

(3) You and your care consultant must identify how many personal care service units you intend to purchase prior to the month you plan to use them (service month).

(4) The value of those units is deducted from your new freedom budget.

(5) The rest of the funds can be used for other covered goods and services or saved.

(6) Once a service month begins, the number of personal care units may not be altered during that month.

(7) The maximum number of personal care units that can be purchased from the monthly budget is calculated from the individual budget as described in WAC 388-106-1445, divided by the individual provider average wage including mileage.

(8) Prior to the service month, you may elect to use savings funds to buy additional personal care.

(9) You may choose to have your personal care provided by an individual provider (IP) or a home care agency.

(10) Each unit will be deducted from your new freedom budget at the average IP wage rate including mileage.

(11) The balance of your individual new freedom budget will be available in your NFSP to save or purchase other goods and services up to the limit described in WAC 388-106-1455(2).

(12) If you have a change of condition or situation and your new freedom budget increases due to a new assessment or exception to rule, you may purchase additional personal care from an IP or home care agency mid-month at the average IP rate, including mileage during the month your budget changed.

(13) You may assign your predetermined personal care units to a different provider during the month of service.

(14) Under chapter 388-114 WAC, individual providers for one or more department clients who work more than forty hours in a work week, are entitled to overtime and the responsibility for paying the extra cost as follows:

(a) If the ~~((department approves the))~~ individual provider is contracted with the department and approved to work more than forty hours per week as described in WAC 388-114-0080, the department will pay the extra cost for overtime up to the number of service hours the individual provider is approved to work and the payment for these extra costs will not be charged to your budget; and

(b) If you assign more overtime hours to your individual provider than the department approved, you must pay the extra costs for the unapproved overtime hours and the additional cost will impact your monthly budget and may reduce the number of service hours you are able to purchase from it.

AMENDATORY SECTION (Amending WSR 14-14-025, filed 6/24/14, effective 7/25/14)

WAC 388-113-0005 What is the purpose of this chapter and to whom does it apply? (1) The purpose of this chapter is to describe the following:

~~((H))~~ (a) Criminal convictions, pending charges, and negative actions that automatically disqualify an ~~((individual))~~ applicant from having unsupervised access to vulnerable adults or minors who are receiving services from a program or facility under subsection (2) of this section;

(b) Exceptions to automatic disqualifications that may apply to certain criminal convictions and pending charges;

(c) Character, competence, and suitability review;

(d) Circumstances in which providers may share background check results and criminal history record information;

(e) One hundred and twenty day provisional hire while fingerprints are pending; and

(f) Confidentiality and retention for background checks.

(2) This chapter applies to the following programs or facilities:

~~((Chapter 388-71 WAC, Home and community services and programs, including individual providers and employees of home care agencies))~~ Long-term care workers providing in-home care under chapter 388-106 WAC, Long-term care services;

~~((Chapter 388-101 WAC, Certified community residential services and supports;~~

~~((e))~~ Chapter 388-76 WAC, Licensed adult family homes;

~~((d))~~ (c) Chapter 388-78A WAC, Licensed assisted living facilities;

~~((e))~~ (d) Chapter 388-97 WAC, Licensed nursing homes and medicare and medicaid certified nursing facilities;

~~((f) Chapter 388-825 WAC, Developmental disabilities administration programs))~~ (e) Certified community residential services and supports under chapter 388-101 and 388-101D WAC; ~~((and))~~

~~((g))~~ (f) Chapter 388-107 WAC, Licensed enhanced services facilities under chapter 388-107 WAC; and

(g) Developmental disabilities administration programs under chapter 388-825 WAC.

~~((2) Exceptions to automatic disqualifications that may apply to certain criminal convictions and pending charges.))~~

AMENDATORY SECTION (Amending WSR 14-14-025, filed 6/24/14, effective 7/25/14)

WAC 388-113-0010 What definitions apply to this chapter? "Applicant" means an employee, volunteer, student, intern, licensee, service provider, contractor, or other individual who is the subject of the background check and who will work in a position that may have unsupervised access, as defined in RCW 43.43.830 to minors or vulnerable adults.

"Authorized entity" means a service provider, licensee, contractor, or other public or private agency that:

(1) Is required to conduct background checks under the rules listed in WAC 388-113-0005; and

(2) Is authorized to conduct the background checks through the background check central unit.

"Background check" means a name and date of birth check or a fingerprint-based background check, or both.

"Background check central unit (BCCU)" means a division within the department that processes background checks for department authorized service providers and department programs who serve vulnerable individuals across Washington state.

"Background check result" means a notification letter produced by the BCCU that describes the outcome of the background check, as described in WAC 388-113-0101, but does not, by itself, include criminal history record information (CHRI).

"Criminal history record information" means the information found in the Records of Arrests and Prosecutions (RAP) sheet about a person's arrests and convictions.

"Department" means the Washington state department of social and health services and its designees.

"Drug" means a:

~~((a))~~ (1) Controlled substance as defined in RCW 69.50.101;

~~((b))~~ (2) Legend drug, as defined in RCW 69.41.010;

~~((e))~~ (3) Precursor drug under Chapter 69.43 RCW; or

~~((d))~~ (4) Imitation controlled substance, as defined in RCW 69.52.020.

"Final finding" is described in WAC 388-71-0105.

"Founded" is defined in WAC 110-30-0020.

"Fingerprint-based background check" means a search of in-state criminal history records through the Washington state patrol and national criminal history records through the Federal Bureau of Investigation (FBI).

"Individual provider (IP)" as defined in RCW 74.39A.240.

"Minor" means any person under the age of eighteen who is receiving services from a program or facility under chapter 388-71 WAC, Home and community services and programs, chapter 388-76 WAC, Adult family home minimum licensing requirements, chapter 388-78A WAC, Assisted living facility licensing rules, chapter 388-97 WAC, Nursing homes, chapter 388-101 WAC, Certified community residential services and supports, chapter 388-107 WAC, Licensing requirements for enhanced service facilities, or chapter 388-825 WAC, Developmental disabilities administration service rules.

"Name and date of birth check" is a search conducted by the background check central unit (BCCU) of Washington state criminal history and negative action records using the applicant's name and date of birth.

"Negative Action" means actions as described in WAC 388-113-0030.

"Pending charge" means a criminal charge for a (~~dis-~~qualifying) crime has been filed in a court of law for which the department has not received documentation showing the disposition of the charge.

"Record of Arrest and Prosecution (RAP sheet)" means a record kept by law-enforcement authorities of a person's arrests and convictions.

"Requesting entity" means the person or entity that requested the background check from the background check central unit (BCCU).

"Unsupervised access" ((means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the minors or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization)) is described in RCW 43.43.830 (13).

"Vulnerable adult" is defined in RCW 74.34.020(17).

AMENDATORY SECTION (Amending WSR 14-14-025, filed 6/24/14, effective 7/25/14)

WAC 388-113-0030 (~~Where do I find what~~) **Which negative actions (~~are disqualifying~~) automatically disqualify an applicant from having unsupervised access to minors and vulnerable adults who are receiving services?** ((In addition to disqualifying convictions and pending charges for disqualifying crimes, individuals are disqualified from working in positions involving unsupervised access to minors or vulnerable adults under chapters 388-71, 388-101, 388-76, 388-78A, 388-97, 388-825 and 388-107 WAC if certain findings have been made or certain actions have been taken against them. These disqualifying findings and actions are referred to as "negative actions" and they are listed in the following program rules:

(a) Chapter 388-71 WAC, Home and community services and programs, including individual providers and employees of home care agencies;

(b) Chapter 388-101 WAC, Certified community residential services and supports;

(c) Chapter 388-76 WAC, Licensed adult family homes;

(d) Chapter 388-78A WAC, Licensed assisted living facilities;

(e) Chapter 388-97 WAC, Licensed nursing homes;

(f) Chapter 388-825 WAC, Developmental disabilities administration programs; and

(g) Chapter 388-107 WAC, Licensed enhanced services facilities))

Applicants who must satisfy background checks requirements under a program or facility listed in WAC 388-113-0005 may not work in a position that may involve unsupervised access to minors or vulnerable adults if he or she has one or more of the following automatically disqualifying negative actions:

(1) A court of law has issued a final order finding or concluding the applicant abused, neglected, financially exploited, or abandoned a minor or vulnerable adult;

(2) The department has made a final finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult against the applicant or the applicant is listed on any state's registry as having a final finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult, and if the finding was made by adult protective services, it was after October 2003;

(3) A founded finding of abuse, neglect, sexual exploitation, or abandonment of a minor against the applicant, or the applicant was found by a court in a dependency proceeding, a title 26 RCW domestic relations proceeding, or other court proceeding to have sexually abused or exploited any minor, or to have physically abused any minor and the finding was made by child protective services after October 1, 1998. Such a finding is not disqualifying if it is accompanied by a Certificate of Parental Improvement (CPI);

(4) The applicant is a registered sex offender, or is required by law to register as a sex offender; or

(5) The department of health or another disciplining authority has issued a final order finding or concluding the applicant abused, neglected, financially exploited, or abandoned a minor or vulnerable adult.

NEW SECTION

WAC 388-113-0050 What is a character, competence, and suitability determination? (1) A character, competence, and suitability determination is a review process that the department, or an authorized entity uses to decide whether an applicant has the character, competence, and suitability to have unsupervised access to minors or vulnerable adults.

(2) The department or authorized entity may also conduct a character, competence, and suitability determination for the purpose of deciding whether or not an applicant has the character, competence, and suitability to work with a particular department client when the applicant is or intends to be an individual provider.

(3) The department or an authorized entity may consider any information that may be relevant to an applicant's character, competence, and suitability, to maintain and promote the health and safety of the client including but not limited to:

(a) The ability of the applicant to appropriately meet the care needs of persons who would be under his or her care;

(b) A history of behaviors that may put persons who would be under the applicant's care at risk; or

(c) The vulnerability of persons who would be under the applicant's care.

(4) Additional factors that may be considered in a character, competence, and suitability determination include, but are not limited to, whether the applicant has had any of the following:

(a) Findings made or actions taken, including settlements or stipulations, by the department, the department of health, or other federal or state agencies;

(b) Sanctions imposed or corrective or remedial actions taken by federal, state, county, or municipal officials;

(c) A license, certification, or contract that is denied, suspended, revoked, or terminated, including a license or certification relinquished in lieu of discipline;

(d) Injunctions against operating a facility for the care of minors or vulnerable adults;

(e) Issuance of a final restraining order or order of protection, either active or expired;

(f) Convictions, or pending charges, for crimes not automatically disqualifying under WAC 388-113-0020, including:

(i) The amount of time that has passed since any of the applicant's convictions, pending charges;

(ii) The seriousness of any convictions or pending charges; and

(iii) The number and types of convictions or pending charges in the applicant's background;

(g) History of failure to comply with the department's billing requirements;

(h) Evidence the applicant has obtained or attempted to obtain a license, certification, department contract, or payment by fraudulent means or misrepresentation; or

(i) Evidence the applicant refused to permit authorized department representatives to interview clients, to have access to client records, or to have access to any care setting.

A character, competence, and suitability determination is only appropriate where the applicant has not been automatically disqualified.

NEW SECTION

WAC 388-113-0060 How and when must a character, competence, and suitability determination be conducted by the department or an authorized entity? (1) The department or an authorized entity must conduct a character, competence, and suitability determination of an employee, prospective employee, or other individual who is required to undergo a background check when the applicant has received a "review required" result as defined in WAC 388-113-0101(b).

(2) If the department or an authorized entity is required to conduct a character, competence, and suitability determi-

nation under this section, the person or entity responsible must document in writing the following information:

(a) Reason for the decision;

(b) Whether or not the applicant may have unsupervised access to minors and vulnerable adults;

(c) The date the character, competence, and suitability determination was completed; and

(d) The name and signature of the person or persons who performed the determination.

(3) If an applicant is required to have a character, competence, and suitability determination under this section, the applicant may not have unsupervised access to minors or vulnerable adults unless the character, competence, and suitability determination has:

(a) Been completed and documented in writing.

(b) Concluded the applicant may have unsupervised access to minors or vulnerable adults.

(4) A character, competence, and suitability determination may not be conducted if an applicant has an automatically disqualifying conviction or pending charge under WAC 388-113-0020 or has an automatically disqualifying negative action under WAC 388-113-0030.

NEW SECTION

WAC 388-113-0070 When may a character, competence, and suitability determination be conducted? The department or an authorized entity may choose to conduct a character, competence, and suitability determination at any time.

NEW SECTION

WAC 388-113-0100 What information sources are searched when the background check central unit (BCCU) conducts a background check? (1) The BCCU searches multiple information sources when completing state and federal background checks, including state and federal law enforcement records, state court records, and agency databases.

These sources include:

(a) Washington state:

(i) Court criminal history and judicial information system records;

(ii) DSHS adult protective services findings;

(iii) DSHS residential client protection program findings;

(iv) DSHS child protective services findings;

(v) Department of health findings; and

(vi) Department of corrections;

(b) Washington state patrol (WSP) fingerprint rap sheets for fingerprint-based search;

(c) WSP criminal history records;

(d) Applicant self-disclosures;

(e) Federal Bureau of Investigation fingerprint rap sheets for fingerprint based search;

(f) Western identification network (WIN) state search (Alaska, Oregon, Idaho, Montana, Nevada, Utah, and Wyoming); and

(g) Stored WSP & FBI fingerprint rap sheets and WIN state rap sheets (unless prohibited by federal law).

(2) For more information, BCCU can be contacted at BCCUInquiry@dshs.wa.gov.

NEW SECTION

WAC 388-113-0101 What are the possible results of a background check? (1) The requesting entity will receive a background check result. The background check result by itself does not include criminal history record information but identifies the source of any criminal or negative action records. The possible types of results are:

(a) A "no record" letter, which means none of the background check data sources reported criminal or negative action records and there are no background check records to be reviewed;

(b) A "review required" letter, which means the applicant or one or more data sources reported a background issue that requires a character, competence, and suitability review by the department or authorized entity to determine whether or not the applicant can work in a position that may have unsupervised access to minors or vulnerable adults; or

(c) A "disqualify" letter, which means the applicant or one or more data sources reported a background issue that automatically disqualifies the applicant from a position that has unsupervised access to minors or vulnerable adults.

(2) The requesting entity may receive an "additional information" letter, which means the applicant or one or more data sources reported information in a manner that is unclear and BCCU requires clarifying information from the applicant before the background check can be completed. An additional information letter is not a result. If the individual receives an "additional information" letter:

(a) The individual may not be contracted or begin working in a position that has unsupervised access until the requesting entity has a non-disqualifying result from the name and date of birth check; or

(b) If the additional information letter is the result of a pending fingerprint check, the individual is not automatically disqualified, and may work as described in 388-113-0109.

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.

NEW SECTION

WAC 388-113-0103 What does the requesting entity receive from the background check central unit? (1) The background check central unit (BCCU) provides the entity who requested the name and date of birth background check with:

(a) Background check result; and

(b) Any criminal history record information and negative actions reported from the background check data sources including the Washington state record of arrests and prosecutions (RAP) sheets; and may include prior fingerprint RAP sheets from the Federal Bureau of Investigation (FBI) if one was used to complete the background check. The FBI RAP sheets will only be distributed as described in subsection (2)(c) below.

(2) BCCU provides the entity who requested the fingerprint background check with:

(a) Background check result;

(b) Any criminal history record information and negative actions reported from the background check data sources, including Washington state RAP sheets; and

(c) Authorized governmental entities will also receive the FBI RAP sheets.

(3) In cases where the requesting entity is not authorized to receive the FBI RAP sheet, the applicant may request those records directly from BCCU.

NEW SECTION

WAC 388-113-0105 When must background check results and criminal history information be shared with the applicant? The requesting entity must:

(1) Notify the applicant of the background check result;

(2) Inform the applicant they may have a copy of their results and criminal history record information when the entity has it; and

(3) Provide a copy of results and criminal history record information when the entity has it, if requested. The applicant may also contact BCCU at BCCUInquiry@dshs.wa.gov.

NEW SECTION

WAC 388-113-0107 When can background check results and criminal history record information be shared? (1) The requesting entity may only disclose the background check result and criminal history record information in the Washington state record of arrests and prosecutions (RAP) sheets from the background check central unit to the following:

(a) The applicant;

(b) The client, or client's representative, when the client has elected to receive services from an IP; and

(c) Other persons or entities as allowed by federal and state law, including the department of health (DOH).

(2) A requesting entity that receives criminal history record information from the Federal Bureau of Investigations (FBI) may only disclose the FBI RAP sheets to the following:

(a) The applicant; and

(b) A governmental entity as allowed by federal and state law, including DOH.

(3) The applicant may choose to provide a copy of the background check result and FBI RAP sheets to the requesting entity or employer.

(4) For additional information sharing related to health care facilities as defined in RCW 43.43.830, refer to individual program WACs under title chapter 388-76 WAC, Adult family home minimum licensing requirements, chapter 388-97 WAC, Nursing Homes, chapter 388-78A WAC, Assisted living facility licensing rules.

(5) The applicant may contact BCCU at BCCUInquiry@dshs.wa.gov for a copy of their results.

NEW SECTION

WAC 388-113-0108 When will the client of an individual provider receive the result and criminal history

record information from the state background check? A client who has elected to receive services from an individual provider will be notified of the result of a background check. When the result of a background check is "review required" the client, who is the managing employer of the individual provider, will be provided with a copy of the background check result and the Washington State record of arrests and prosecutions (RAP) sheets if requested by the client. The individual provider may choose to provide a copy of the FBI RAP sheet to the client.

NEW SECTION

WAC 388-113-0109 May an individual have unsupervised access to minors or vulnerable adults pending the outcome of the fingerprint check? (1) Individuals who are required to complete a fingerprint-based background check may have unsupervised access for a one hundred twenty-day provisional period when both:

- (a) The individual is not disqualified by the name and date of birth background check which is also known as the interim result letter; and
 - (b) A fingerprint-based background check is pending, which means fingerprint appointment has been scheduled.
- (2) If this section conflicts with any other provision of the WAC, this section takes precedence.

Chapter 388-115 WAC

Consumer directed employer

NEW SECTION

WAC 388-115-0500 What is the purpose of this section of the chapter? The purpose of WAC 388-115-0500 through WAC 388-115-05640 is to describe:

- (1) The role of the client as the managing employer of individual providers;
- (2) Individual provider qualifications and responsibilities;
- (3) When the consumer directed employer must or may reject a client's selected individual provider; and
- (4) When the consumer directed employer has a right to an administrative hearing.

NEW SECTION

WAC 388-115-0503 What definitions apply to WAC 388-115-0500 through 388-115-05640? "Area agencies on aging (AAA)" means a contracted entity that aging and long-term support administration (AL TSA) grants funds to in order to carry out the functions of the Older Americans Act, general-fund state programs and to provide case management services and supports to individuals 18 and older who receive medicaid-funded LTC in their own homes.

"Applicant" means a person who is in the process of becoming an in-home long-term care worker.

"Negative actions" are listed in WAC 388-113-0030.

"Background check" means a name and date of birth check or a fingerprint-based background check, or both.

"Background check result" is defined in Chapter 388-113-0101.

"Background check central unit" (BCCU) means the DSHS entity responsible for conducting background checks for the department.

"Character, competence and suitability determination (CC&S)" is defined in WAC 388-113-0050.

"Client" means an individual receiving medicaid-funded in-home long term services from the department.

"Consumer directed employer (CDE)" is a private entity that contracts with the department to be the legal employer of individual providers for purposes of performing administrative functions. The consumer directed employer is patterned after the agency with choice model, recognized by the federal centers for medicare and medicaid services for financial management in consumer directed programs. The entity's responsibilities are described in RCW 74.39A.515 and throughout this chapter 74.39A RCW and include:

- (1) Coordination with the consumer, who is the individual provider's managing employer;
- (2) Withholding, filing, and paying income and employment taxes, including workers' compensation premiums and unemployment taxes, for individual providers;
- (3) Verifying an individual provider's qualifications; and
- (4) Providing other administrative and employment-related supports. The consumer directed employer is a social service agency and its employees are mandated reporters as defined in RCW 74.34.020.

"Department" means the department of social and health services (DSHS).

"Fingerprint-based background check" means an in-state criminal history records through the Washington state patrol and national criminal history records through the Federal Bureau of Investigation.

"Individual provider (IP)" as defined in RCW 74.39A.240 limited to Individual Providers employed by the consumer directed employer.

"Managing employer" means a consumer who employs one or more individual providers and whose responsibilities include:

- (1) Choosing potential individual providers and referring them to the consumer directed employer;
- (2) Selecting an individual provider(s);
- (3) Overseeing the day-to-day management and scheduling of the individual provider's tasks consistent with the plan of care; and
- (4) Dismissing the individual provider when desired.

"Name and date of birth check" is a search, conducted by the background check central unit (BCCU), of Washington state check criminal history and negative action records using the applicant's name and date of birth.

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.

NEW SECTION

WAC 388-115-0505 What is the client's role as managing employer of an individual provider? The client, or their representative, is the managing employer and:

(1) Has the primary responsibility to select, dismiss, assign hours, and supervise the work of one or more individual providers; and

(2) May receive assistance from the consumer directed employer or other resources in identifying potential providers.

NEW SECTION

WAC 388-115-0510 What are the qualifications of an individual provider? In order to be qualified as an individual provider, an applicant must:

- (1) Be eighteen years of age or older;
- (2) Not have a disqualifying crime or negative action under chapter 388-113 WAC based on a completed background check;
- (3) Not be disqualified based on a character, competence, and suitability determination;
- (4) Complete training and certification requirements as required by WAC 388-71-0520 and WAC 388-71-0523;
- (5) If required, have a home care aide certification or other qualifying credential by the DOH that is both active and in good standing;
- (6) Be an employee of the consumer directed employer to provide personal care services;
- (7) Pass the federal exclusion list screening; and
- (8) Not have credible allegations of fraud which are pending investigation, unless they fit within the exceptions listed in 42 C.F.R. 455.23.

NEW SECTION

WAC 388-115-0511 When is a background check required of an individual provider? (1) Individual providers are required to complete and pass a name and date of birth background check prior to working with a client.

(2) Individual providers are required to complete and pass a name and date of birth background check:

- (a) Every two years; and
 - (b) Any time the consumer directed employer requests a new background check from an individual provider.
- (3) In addition to the name and date of birth background check, individual providers must complete and pass a fingerprint-based background check as required in RCW 43.43.837 and RCW 74.39A.056.

NEW SECTION

WAC 388-115-0513 How does an individual provider complete a background check? (1) The individual provider must:

- (a) Complete the background check authorization form;
- (b) Answer all questions on the background check authorization form truthfully;
- (c) Obtain a fingerprint-based background check result;
- (d) Not have any automatically disqualifying conviction(s), pending charge(s), or negative action(s) as described in chapter 388-113 WAC;
- (e) Review the background check results and if necessary provide documents or other information to BCCU to correct the background check results; and

(f) When requested by BCCU, provide additional information in order to complete a background check as mandated by statute.

(2) It is the responsibility of the consumer directed employer to ensure compliance with subsection (1) of this section for individual providers it employs.

NEW SECTION

WAC 388-115-0516 What are the responsibilities of the consumer directed employer when providing care to a client? In providing care to a client, the consumer directed employer must:

- (1) Be responsible that the assigned individual provider(s) understands the client's plan of care;
- (2) Assign tasks from services outlined in a client's plan of care, as described in WAC 388-106-0010;
- (3) Accommodate the client's individual preferences and unique needs in providing care;
- (4) Contact the client, client's representative and case manager when there are changes observed by the individual provider that affect the personal care and other tasks listed on the plan of care;
- (5) Be responsible that the individual provider(s) observes the client for and consults with the client or representative, regarding change(s) in health, takes appropriate action, and responds to emergencies;
- (6) Notify the case manager immediately when the client enters a hospital or moves to another setting;
- (7) Notify the case manager immediately in the event of the client's death;
- (8) Notify the department or AAA immediately when unable to staff/serve the client;
- (9) Comply with time keeping requirements, and keep accurate records of time of authorized/paid hours that are accessible to the appropriate department or designee staff; and
- (10) Comply with all applicable laws and regulations.

NEW SECTION

WAC 388-115-0520 What are the training requirements for an individual provider? An individual hired on or after January 7, 2012, must meet the training requirements described in WAC 388-71-0836 through 388-71-1006. These training requirements also apply to individual providers who were hired before January 7, 2012, if they did not complete prior training requirements within one hundred twenty days of hire and they want to be reinstated to work. These training requirements and certification if required must be met prior to reinstating these individuals to work.

NEW SECTION

WAC 388-115-0523 What are the training and certification requirements for individual providers? The following chart provides a summary of the training and certification requirements for individual providers, including criteria for those providers working limited hours for one person, caring only for one's child or parent, and providing respite services only:

Who	Status	Orientation training	Safety training	Basic training	Continuing education (CE)	Required credential
(1) An individual provider who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041 (1)(a)(i)(A).	ARNP, RN, LPN, HCA, NA-C, or other professionals listed in WAC 388-71-0839	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required twelve hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010.	Not required. Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839.
(2) An individual provider with specific employment history.	A long-term care worker employed at some point between January 1, 2011 and January 6, 2012, and has completed the basic training requirements in effect on his or her date of hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	Required. Twelve hours under WAC 388-71-0990 and 388-71-0991.	Not required.
(3) An individual provider.	Hired by the consumer directed employer to provide personal care service as defined in WAC 388-71-0836, and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. Seventy hours under WAC 388-71-0870 and 388-71-0875.	Required. Twelve hours under WAC 388-71-0990 and 388-71-0991.	Home care aide certification required per under WAC 388-71-0975 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065).
(4) An individual provider who works limited hours for one person.	Individual providing twenty hours or less of care for one person per calendar month, and does not meet the criteria in (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. Thirty hours under WAC 388-71-0880.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education (CE)	Required credential
<p>(6) An individual who provides only respite services and works three hundred hours or less in any calendar year.</p>	<p>(a) Individual providing only respite care and works no more than three hundred hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section.</p> <p>(b) Individual providing only respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working three hundred hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. Thirty hours under WAC 388-71-0880.</p>	<p>Not required.</p>	<p>Not required.</p>
<p>(6) An individual provider caring only for his or her biological, step, or adoptive adult child.</p>	<p>Individual providing care only for his or her adult child that receives services through the developmental disabilities administration and not exempt under (1) or (2) of this section.</p>	<p>Required. Two hours per WAC 388-71-0895.</p>	<p>Required. Three hours under WAC 388-71-0895.</p>	<p>Required. Seven hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education (CE)	Required credential
(7) An individual provider caring only for his or her biological, step, or adoptive child, or parent.	Individual providing care only to his or her child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. Thirty hours under WAC 388-71-0880.	Required for an individual provider caring only for his or her biological, step, or adoptive parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for his or her biological, step, or adoptive child under WAC 388-71-1001.	Not required.

NEW SECTION

WAC 388-115-0540 When will the consumer directed employer reject your selected individual provider? (1) The CDE will reject an individual provider who:

- (a) Is the client's spouse, except in the case of an individual provider for a chore services client;
- (b) Is the natural, step, or adoptive parent of a minor client aged seventeen or younger;
- (c) Is the foster parent providing personal care or skills acquisition training to a child residing in their licensed foster home; or
- (d) Does not meet the qualifications under WAC 388-115-0510.

(2) The CDE will also reject an individual provider when the CDE believes that the individual will be unable to appropriately meet the care needs of the consumer, including health and safety.

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

NEW SECTION

WAC 388-115-05410 What are the client's rights if the consumer directed employer rejects their selection of a person to serve as their individual provider or discontinues their current individual provider's assignment? (1) The client may choose to receive services from a different individual provider or another qualified provider.

(2) The client has the right to dispute the decision under the consumer directed employer's dispute resolution process.

(3) The client does not have a right to a hearing under chapter 34.05 RCW.

NEW SECTION

WAC 388-115-05415 When will the department deny payment to the CDE? The department will deny payment to the CDE for services provided to a department client:

(1) By an individual provider who does not meet the qualifications in WAC 388-115-0510;

(2) In excess of the client's authorized number of hours, except when necessary to respond to an emergent situation that poses a serious risk to the client's health and safety; or

(3) As provided in the contract with the consumer directed employer.

NEW SECTION

WAC 388-115-0562 When does the consumer directed employer have the right to an administrative hearing and how can a hearing be requested? (1) The consumer directed employer has the right to an administrative hearing when the department or a department designee terminates its contract or takes other enforcement action related to its contract because the consumer directed employer:

- (a) Employs an individual provider who has not completed training within the required timeframe; or
- (b) Employs an individual provider who does not meet the certification or recertification requirements or whose certification has been revoked by the department of health (DOH).

(2) In an administrative hearing under subsection (1) of this section, the consumer directed employer may not challenge an action taken by the DOH that affects an individual provider's certification.

(3) To request an administrative hearing, the consumer directed employer must send, deliver, or fax a written request to the office of administrative hearings (OAH). OAH must receive the written request within thirty calendar days of the date the department's notice letter is served upon the consumer directed employer.

(4) The consumer directed employer should keep a copy of the request.

(5) The appeal process will be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 74.39A.-085, chapter 388-02 WAC, title 182 WAC, and this chapter. If there is a conflict between chapter 388-02 WAC, title 182 WAC, and this chapter, this chapter will govern.

NEW SECTION

WAC 388-115-05640 Self-directed care—Who must direct self-directed care? Self-directed care under chapter 74.39 RCW must be directed by an adult client for whom the health-related tasks are provided. The adult client is responsible to train the individual provider in the health-related tasks which the client self-directs.

NEW SECTION

The following section of the Washington Administrative Code is decodified and recodified as follows:

Old WAC Number	New WAC Number
388-113-0040	388-113-0025

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-71-0512 What is included in Washington state's name and date of birth background check and the Washington state and national fingerprint-based background check?
- WAC 388-71-0514 Can an individual provider or licensed home care agency long-term care worker work pending the outcome of the national fingerprint-based background check?
- WAC 388-71-0544 When may the department, AAA, or department designee deny payment to a home care agency for the services of a long-term care worker that it employs?
- WAC 388-71-0546 When may the department, AAA, or department designee reject your choice of an individual provider?
- WAC 388-71-0551 When may the department, AAA, or department designee terminate an individual provider's contract?
- WAC 388-71-0553 When may the department summarily suspend an individual provider's contract?
- WAC 388-71-0556 When can the department, AAA, or managed care entity otherwise terminate an individual provider's contract?
- WAC 388-71-0560 What are the client's rights if the department denies, terminates, or summarily suspends an individual provider's contract?

WSR 21-12-006**WITHDRAWAL OF PROPOSED RULES
PIERCE COLLEGE**

[Filed May 19, 2021, 2:31 p.m.]

WSR 21-09-058 for chapter 132K-200 WAC is withdrawn. The agency will be refiled at a later date, and a new public hearing will be held at that time.

Michele L. Johnson, Ph.D.
Chancellor and CEO

WSR 21-12-007**PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES**

[Filed May 19, 2021, 4:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-14-004.

Title of Rule and Other Identifying Information: WAC 110-16-0005 Definitions, 110-16-0015 Provider responsibilities, 110-16-0025 Health and safety training, 110-16-0030 Health and safety activities, 110-16-0035 Health and safety practices, and 110-16-0040 Compliance.

Hearing Location(s): On July 6, 2021, telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where the department of children, youth, and families (DCYF) will send its response. Comments received through and including July 6, 2021, will be considered.

Date of Intended Adoption: July 8, 2021.

Submit Written Comments to: DCYF Rules Coordinator, P.O. Box 40975, Olympia, WA 98504-0975, email rulescoordinator@dcyf.wa.gov. Submit comments online at <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by July 6, 2021.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, by July 2, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **For family, friend, and neighbor (FFN) child care:** For individuals who care for children they are related to by marriage, blood, or court decree, but who are not grandparents, great grandparents, siblings who do not live with the children cared for, aunts, great aunts, uncles, or great uncles, proposed rules will condition eligibility to participate in the working connections child care and seasonal child care programs on completion of health and safety training and participation in an annual, health and safety monitoring visit conducted by department staff in the home where care is provided.

The required health and safety training topics are first aid and CPR, prevention and control of infectious diseases, administration of medication, prevention of, and response to, emergencies due to food and allergic reactions, building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic, the prevention of child abuse and neglect, prevention of

shaken baby syndrome, head trauma, emergency preparedness and response planning for natural disasters and human-caused events, handling and storage of hazardous materials and bio contaminant disposal, transporting children, and, if caring for an infant, prevention of sudden infant death syndrome and safe sleep.

Reasons Supporting Proposal: Proposed amendments comply with child care and development fund requirements for receipt of grant monies embodied in the 2014 Child Care and Development Block Grant Act reauthorization and supporting federal rules.

Statutory Authority for Adoption: RCW 43.216.055, 43.216.065; chapter 43.216 RCW.

Statute Being Implemented: Chapter 43.216 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule making preserves federal funding appropriations to Washington state.

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Tyler Farmer, 360-628-2151; Implementation and Enforcement: DCYF, statewide.

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

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5)(a)(i). DCYF does not voluntarily make that section applicable to the adoption of the proposed rules.

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

Is exempt under RCW 19.85.030.

Explanation of exemptions: Rule proposals do not impact any businesses.

May 19, 2021
Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) **"Benefit"** means a regular payment made by a government agency on behalf of a person eligible to receive it.

(2) **"Child"** or **"children,"** except when otherwise specified, means a child or children eligible for WCCC benefits under chapter 110-15 WAC.

(3) **"Days"** means calendar days unless otherwise specified.

(4) **"Department"** or **"DCYF"** means the department of children, youth, and families.

(5) **"In-home/relative provider"** or **"family, friends, and neighbors (FFN) provider"** means an individual who is exempt from child care licensing requirements and is approved for WCCC payments under WAC 110-15-0125.

Reference in this chapter to the term "provider" means an in-home/relative or FFN provider, except when otherwise specified.

(6) **"In loco parentis"** means the adult caring for a child eligible for WCCC in the absence of the biological adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and who is responsible for exercising day-to-day care and control of the child.

(7) **"Infant"** is a child birth through eleven months of age.

(8) **"Lockdown"** or **"shelter-in-place"** means to remain inside the home when police or an official emergency response agency notifies a provider that it is unsafe to leave or be outdoors during an emergency situation.

(9) **"Parent"** means, for the purposes of this chapter, the "in loco parentis" or the biological, adoptive, or step-parent, court-ordered guardian, or custodian eligible for WCCC benefits under this chapter.

(10) **"Subsidy payment begin date"** means the first day ~~(the)~~ a provider is authorized to start billing for care provided to eligible children.

(11) **"Supervise"** or **"supervision"** means a provider must be able to see or hear the children they are responsible for at all times. Providers must use their knowledge of each child's development and behavior to anticipate what may occur to prevent unsafe or unhealthy events or conduct, or to intervene in such circumstances as soon as possible. Providers must also reposition themselves or the children to be aware of where children are and what they are doing during care. Providers must reassess and adjust their supervision each time child care activities change.

(12) **"Swimming pool"** means a pool that has a water depth greater than two feet.

(13) **"Technical assistance"** means the provision of customized supports to develop or strengthen processes, knowledge application, or implementation of services by providers.

(14) **"Toddler"** means a child twelve months through twenty-nine months of age.

(15) **"Wading pool"** means a pool that has a water depth of less than two feet. A portable wading pool is one that is formed of molded plastic or inflatable parts and can be removed after use.

(16) **"Water activities"** refers to the activities in which children in care swim or play in a body of water that poses a risk of drowning for children.

(17) **"WCCC"** means the working connections child care program, a child care subsidy program available to eligible families to help pay for child care.

AMENDATORY SECTION (Amending WSR 19-18-081, filed 9/3/19, effective 10/4/19)

WAC 110-16-0015 Provider responsibilities. (1) ~~(The)~~ A provider must:

(a) Agree to provide care, supervision, and daily activities based on the child's developmental needs, including health, safety, physical, nutritional, emotional, cognitive, and social needs;

(b) Report any legal name, address, or telephone number changes to DCYF within ten days;

(c) Comply with the requirements contained in this chapter and the applicable requirements in chapters 110-06 and 110-15 WAC;

(d) Allow parents access to their own children at all times while in care; and

(e) Have access to a telephone with 911 emergency calling services and capability for both incoming and outgoing calls during all times children are in care.

(2) ~~((The))~~ A provider must not submit an invoice for more than six children for the same hours of care.

(3) ~~((The))~~ A provider must not care for more than six children, including their own children, at any one time.

(4) Care must be provided in the following locations:

(a) A provider~~((s))~~ related to the child by marriage, blood relationship, or court decree and who are grandparents, great-grandparents, siblings ~~((if living in a))~~ who live in separate residences~~((s))~~, aunts, ~~((or))~~ uncles, great aunts, or great uncles must choose ~~((to be approved))~~ to provide care in either the provider's home or the child's home, with the exception that a provider~~((s))~~ residing with a person disqualified under chapter 110-06 WAC must provide care in the child's home.

(b) A provider~~((s))~~ related to the child by marriage, blood, or court decree, but not listed in (a) of this subsection, must choose to be approved to provide care in either the provider's home or the child's home, with the exception that a provider~~((s))~~ residing with a person disqualified under chapter 110-06 WAC must provide care in the child's home.

(c) A provider~~((s))~~ not related to the child, such as a friend~~((s))~~ or neighbor~~((s))~~ must provide care in the child's home.

(5) A provider~~((s))~~ ~~must comply with health and safety activities as follows:~~

~~((a))~~ Providers related to the child as described in subsection (4)(b) of this section, must participate in a technical assistance phone call with the department within ninety days of the subsidy payment begin date and annually thereafter;

~~((b))~~ Providers not related to the child, as described in subsection (4)(b) or (c) of this section must:

~~((i))~~ Must ~~((a))~~ Complete the ~~((department approved))~~ department approved training required ~~((in))~~ by WAC 110-16-0025; and

~~((ii))~~ Must ~~((b))~~ Have an annual technical assistance visit in the ~~((child's))~~ home where FFN care is provided.

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0025 Health and safety training. (1) A provider ~~((not related to the child, as))~~ described in WAC 110-16-0015 ~~((3)(e))~~ (4)(b) or (c) must complete the following training within ninety calendar days of the subsidy payment begin date:

(a) Infant, child, and adult first aid and cardiopulmonary resuscitation (CPR):

(i) This training must be taken in person and the provider must demonstrate learned skills to the instructor.

(ii) The instructor must be certified by the American Red Cross, American Heart Association, American Safety and Health Institute, or other nationally recognized certification program.

(b) Prevention of sudden infant death syndrome and safe sleep practices when caring for infants; and

(c) ~~((Department approved))~~ Department approved health and safety training which includes the following topic areas:

(i) Prevention and control of infectious diseases;

(ii) Administration of medication;

(iii) Prevention of, and response to, emergencies due to food and allergic reactions;

(iv) Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;

(v) Prevention of shaken baby syndrome, abuse head trauma, and child maltreatment;

(vi) Emergency preparedness and response planning for natural disasters and human-caused events;

(vii) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

(viii) Appropriate precautions in transporting children;

(ix) Recognition and reporting of child abuse and neglect, including the prevention of child abuse and neglect as defined in RCW 26.44.020 and mandatory reporting requirements under RCW 26.44.030; and

(x) Other topic areas as determined by the department.

(2) A provider ~~((not related to the child, as))~~ described in WAC 110-16-0015 ~~((3)(e))~~ (4)(b) or (c) can meet the health and safety training in subsection (1)(c) of this section if the department verifies that the provider has completed any of the following either prior to or within ninety calendar days of the subsidy payment begin date:

(a) Child care basics, a ~~((department approved))~~ department approved thirty-hour health and safety training.

(b) Washington state early childhood education initial certificate (twelve credits) that includes early childhood education and development 105 health, safety, and nutrition.

(3) A provider ~~((not related to the child, as described in WAC 110-16-0015 (3)(e), who, on October 1, 2018, has an existing WCCC subsidy authorization with an end date on or before December 30, 2018, does not need to complete the training required under subsections (1) or (2) of this section. If the provider is reauthorized for payment beginning January 1, 2019, or later, the provider must complete the training required under subsections (1) and (2) of this section unless exempt from training under subsection (2)(b) of this section.~~

(4) A provider not related to the child, as described in WAC 110-16-0015 ((3)(e), must annually renew portions of the training required in subsection (1)(c) of this section, as determined by state or federal requirements)) (4)(b) or (c) must complete a minimum of two hours of health and safety training annually, using the subsidy payment begin date. The training must include, but is not limited to, one or more of the following:

(a) Prevention and control of infectious diseases;

(b) Emergency preparedness and response planning for natural disasters and human-caused events;

(c) Recognizing and prevention of shaken baby syndrome, head trauma abuse, neglect, and child maltreatment; and

(d) Prevention of sudden infant death syndrome and safe sleep practices, if caring for an infant or toddler.

AMENDATORY SECTION (Amending WSR 19-18-081, filed 9/3/19, effective 10/4/19)

WAC 110-16-0030 Health and safety activities. (1) ~~A provider((s not related to the child as))~~ described in WAC 110-16-0015 (4)(b) or (c), must ~~((comply with the following health and safety activity requirements:~~

~~(a) Complete the Parent and FFN Provider Health and Safety Agreement; and~~

~~(b)) participate in an annual, scheduled visit conducted by department staff in the ~~((child's home. If necessary, as determined by the department, follow up visits may occur on a more frequent basis))~~ home where care is provided.~~

~~(2) ((The Parent and FFN Provider Health and Safety Agreement must:~~

~~(a) Be signed by the provider and parent(s) and verify that the parent(s) and provider discussed and reviewed all of the topics and subject matter items contained in the agreement. The subject matter items include, but are not limited to: Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment; emergency contacts; fire and emergency prevention; knowledge and treatment of children's illnesses and allergies; developmental and special needs; medication administration; safe transportation; child immunizations; and safe evacuation; and~~

~~(b) Be received by the department within forty five days of completion of the training requirements in WAC 110-16-0025 (2)(a) or verification of the training exemption in WAC 110-16-0025 (2)(b).~~

~~(3)) The purpose of the ~~((annual, scheduled visit in the child's home))~~ visit is to:~~

~~(a) Provide technical assistance to the provider regarding the health and safety requirements described in this chapter;~~

~~(b) Observe the provider's interactions with the child, and discuss health and safety practices;~~

~~(c) Provide written information and local resources about child development to include the major domains of cognitive, social, emotional, physical development, and approaches to learning; and~~

~~(d) Provide regional contact information for FFN child care services and resources.~~

~~((4) If the department is not able to successfully complete a scheduled visit with the provider in the child's home after three attempts, the)) (3) A provider will be ((deemed not in)) considered out of compliance with the requirements of this chapter if, after three attempts, the department is not able to complete an annual, scheduled visit in the home where care is provided.~~

~~((5)) (4) At the annual, scheduled visit, the provider must show, unless previously provided to the department:~~

~~(a) Proof of identity;~~

~~(b) Proof of current certification for first aid and cardio-pulmonary resuscitation (CPR) in the form of a card, certificate, or instructor letter;~~

~~(c) Proof of vaccination against or acquired immunity for vaccine-preventable diseases for all children in care, if the provider's children are on-site at any time with the eligible children. Proof can include:~~

~~(i) A current and complete department of health (DOH) certificate of immunization status (CIS) or certificate of exemption (COE) or other ~~((department of health approved))~~ DOH approved form; or~~

~~(ii) A current immunization record from the Washington state immunization information system (WA IIS).~~

~~(d) Written permission from the parent to:~~

~~(i) Allow children to use a swimming pool;~~

~~(ii) Administer medication for treatment of illnesses and allergies of the children in care;~~

~~(iii) Provide for and accommodate developmental and special needs; and~~

~~(iv) Provide transportation for care, activities, and school when applicable.~~

~~(e) The written ~~((home evacuation))~~ emergency preparedness and response plan required in WAC 110-16-0035 ~~((4)) (8)(c).~~~~

AMENDATORY SECTION (Amending WSR 19-18-081, filed 9/3/19, effective 10/4/19)

WAC 110-16-0035 Health and safety practices. ~~A~~ provider~~((s not related to the child, as))~~ described in WAC 110-16-0015 (4)(b) or (c), must ~~((comply with the following))~~ complete the health and safety ((activity practices)) training ~~((as))~~ described in WAC 110-16-0025 and ~~((required by the department including, but not limited to,))~~ comply with the following health and safety practices and criteria:

~~(1) Promote the prevention and control of infectious diseases ((:)) by:~~

~~(a) Washing their hands thoroughly with soap and warm running water and ensuring the children in their care wash their hands thoroughly with soap and warm running water:~~

~~(i) After toileting or assisting a child with toileting;~~

~~(ii) After changing a diaper;~~

~~(iii) Before eating, preparing, or handling food; and~~

~~(iv) After handling bodily fluids such as blood, vomit, or mucus from sneezing, wiping, or blowing noses.~~

~~(b) Ensure all bedding used by children is washed weekly and more often as needed when soiled; and~~

~~(c) Change diapers on a surface that is easily cleaned and sanitized and located away from food preparation and meal service areas.~~

~~(2) ((The prevention of sudden infant death syndrome and safe)) Create a safe sleeping environment using the following sleep practices, including sudden infant death syndrome((+)) and sudden unexpected infant death syndrome risk reduction((:)):~~

~~(a) Infants from birth to twelve months of age must be placed on their backs for resting and sleeping, alone in an approved crib, play yard, or porta-crib;~~

~~(b) A tightly fitted bottom sheet must cover the crib or mattress with no additional padding placed between the sheet and the mattress;~~

~~(c) Soft objects, bumper pads, stuffed toys, blankets, quilts or comforters, pillows, and other objects that could~~

smother an infant must not be placed with, under, or within reach of a resting or sleeping infant;

(d) Blankets must not be draped over cribs or play yards while they are in use; and

(e) Infants' bottles must not be propped or placed in the crib with a resting or sleeping infant.

(3) ~~((The prevention of))~~ Prevent shaken baby syndrome, abusive head trauma, and child maltreatment by:

(a) Not shaking, throwing, hitting, or otherwise intentionally inflicting harm, pain, or humiliation upon an infant or child in care; and

(b) Taking steps to prevent the physical discipline of children in their care. Steps may include, but are not limited to, seeking support from another adult or a parenting helpline when feeling stressed, overwhelmed, or unreasonably frustrated due to a child's behavior, for example, during times of inconsolable crying or toileting accidents; and

(4) ~~((The))~~ Recognition and reporting of child abuse and neglect, including the prevention of child abuse and neglect as defined in RCW 26.44.020 and mandatory reporting requirements ~~((under))~~ of RCW 26.44.030.

(5) Medication administration.

(a) A provider must have parents inform them of any known food allergies of children in care, steps to take to avoid the allergens, specific symptoms that indicate the need for treatment, and how to respond to allergic reactions;

(b) A child's parent, or ~~((an))~~ their appointed designee, must provide training to the provider for special medical procedures that the provider may have to administer to the child. This training must be documented ~~((and))~~, signed by the provider and parent, and kept in the home where care is provided;

~~((b) The))~~ (c) A provider must not give medication to any child in care without written and signed consent from ~~((that))~~ the child's parents or health care providers. ~~((The))~~ Medication must be given according to the directions on the medication label using appropriately cleaned and sanitized medication measuring devices;

~~((e) The))~~ (d) A provider must not give or allow others to give any medication to a child in care for the purpose of sedating the child unless the medication has been prescribed for a specific child for that particular purpose by a health care professional; ~~((and~~

~~((d))~~ (e) Medication must be stored and maintained as directed on the packaging or prescription label, including applicable refrigeration requirements; and

(f) Within one hour of treating a child for signs or symptoms of an allergic reaction, a provider must notify the child's parent.

(6) Indoor building and physical premises safety.

(a) ~~((The))~~ A provider must visually scan indoor areas to identify potential child safety hazards, and, if care is provided in the child's home, discuss ~~((removal or reduction of))~~ removing or reducing identified hazards with ~~((the))~~ parent. If it is not possible for ~~((the))~~ a provider to immediately correct or make a hazard ~~((completely))~~ inaccessible to a child, the provider must supervise the child to avoid injury from ~~((such))~~ the identified hazard. Child safety hazards include, but are not limited to:

(i) Tobacco and cannabis products and containers holding tobacco and cannabis products or ashes;

(ii) Firearms, guns, weapons, and ammunition;

(iii) Any equipment, material, or objects that may pose a risk of choking, aspiration, or ingestion. For purposes of this section, equipment, material, or objects with a diameter or overall dimension of one and three-quarter inch or less are considered items that may pose a risk of choking, aspiration, or ingestion;

(iv) Straps, strings, cords, wires, or similar items capable of forming a loop around a child's neck that are not being used for a supervised activity;

(v) Poisons, chemicals, toxins, dangerous substances or any product labeled "Keep out of reach of children," including, but not limited to, fuel, lighter fluid, solvents, fertilizer, ice melt product, pool chemicals, pesticides, or insecticides, cleansers and detergents, air freshener or aerosols, sanitizing products, and disinfectants;

(vi) Personal grooming, cosmetics, and hygiene products including, but not limited to, nail polish remover, lotions, creams, toothpaste, powder, shampoo, conditioners, hair gels or hair sprays, bubble bath, or bath additives;

(vii) Alcohol, including closed and open containers;

(viii) Plastic bags and other suffocation hazards;

(ix) Equipment, materials, or products that may be hot enough to injure a child;

(x) Freezers, refrigerators, washers, dryers, compost bins, and other entrapment dangers;

(xi) Uneven walkways, damaged flooring or carpeting, or other tripping hazards;

(xii) Large objects capable of tipping or falling over, such as televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units;

(xiii) Indoor temperatures less than sixty-eight degrees Fahrenheit or greater than eighty-two degrees Fahrenheit;

(xiv) Water accessible to children that may be hotter than one hundred twenty degrees Fahrenheit ~~((the provider should always feel hot water before using on or for a child));~~

(xv) Windows ~~((and stairs accessible to children)), stairways, steps, or porches from which children could fall; and~~

(xvi) Electrical outlets, power strips, exposed wires, and electrical/extension cords.

(b) During care hours, providers must ~~((not themselves, and must not allow others who may be))~~ ensure that no one in the presence of the children ~~((to)), including themselves:~~

(i) ~~((Possess))~~ Possesses or use illegal drugs;

(ii) Consumes or use alcohol or cannabis products in any form;

(iii) ~~((Be))~~ Is under the influence of alcohol, cannabis products in any form, illegal drugs, or misused prescription drugs; and

(iv) Smokes or vapes in the home, vehicle, or in close proximity to a child.

(7) Outdoor building and physical premises safety. ~~((The))~~ A provider must visually scan outdoor play areas to identify potential child safety hazards, and, if care is provided in the child's home, discuss removal or reduction of identified hazards with the parents. If it is not possible for ~~((the))~~ a provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child

to avoid injury. Outdoor hazards include, but are not limited to:

(a) Outdoor play area or equipment that is not clean, not in good condition, or not maintained or safe for a child of a certain age to use;

(b) Bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls designed to be used by individual children;

(c) Toxic plants or plants with poisonous leaves such as foxglove, morning glory, tomato, potato, rhubarb, or poison ivy;

(d) Extreme weather conditions such as:

(i) Heat in excess of one hundred degrees Fahrenheit;

(ii) Cold below twenty degrees Fahrenheit;

(iii) Lightning storm, tornado, hurricane or flooding; and

(iv) Air quality warnings by public health or other authorities.

(e) Bodies of water such as:

(i) Swimming pools when not being used, portable wading pools, hot tubs, spas, and jet tubs;

(ii) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools, or similar bodies of water; and

(iii) Uncovered wells, septic tanks, below grade storage tanks, farm manure ponds, or other similar hazards.

(f) Streets, alleyways, parking lots, or garages.

(8) Emergency preparedness and response planning.

(a) ~~(The)~~ A provider must visually scan indoor and outdoor areas to identify potential fire or burn hazards and, if care is provided in the child's home, discuss the removal or reduction of identified hazards with the parents. If it is not possible for ~~(the)~~ a provider to immediately correct or make identified hazards completely inaccessible to a child in care, the provider must supervise the ~~(child)~~ children to avoid injury from such identified hazards. Fire or burn hazards include, but are not limited to:

(i) Appliances and any heating device that has a hot surface when in use or still hot after use;

(ii) Open flame devices, candles, matches, and lighters. Open flame devices, candles, matches, and lighters must not be used during care hours; and

(iii) The lack of, or nonworking smoke detectors, fire extinguishers, or other fire prevention equipment.

(b) If there is a fire in the home during care hours, ~~(the)~~ a provider's first responsibility is to evacuate the children in care to a safe gathering spot outside the home and then call 911;

(c) ~~(The)~~ Exits from the home where care is provided must be readily accessible and easily opened in case of an emergency;

(d) A provider and parent must have an agreed upon written home emergency preparedness and response plan that includes procedures for evacuation (plan in the event of fire or an emergency or other disaster. The plan must be updated as needed and include, at a minimum) relocation, and locking down or sheltering-in-place. The plan must include at least a:

(i) ~~(A)~~ Floor plan (that) of the home where care is provided that shows emergency exit pathways, doors, and windows;

(ii) ~~(A)~~ Description (for how the provider will evacuate all of the) of how all children in care will be evacuated, especially those who cannot walk;

(iii) ~~(A)~~ Description (for how the provider will account for all of the) of how all children in care will be accounted for after they are evacuated from the home;

(iv) ~~(A)~~ Designated, safe gathering spot or alternative short-term location for the children and provider pending arrival of the fire department, emergency response, or (the) parents;

(v) ~~(A)~~ Description of what to take when evacuating, such as a first aid kit, medications, water, and food; and

(vi) ~~(A)~~ Description (for) of how parents will be contacted after the emergency is over (and) to arrange for pick-up of children, if needed.

~~(e)~~ To be properly prepared (for a home evacuation or lockdown, the) to respond to emergencies both at and away from the home where care is provided, a provider must (be able to easily access emergency items including, but not limited to) have readily available and easily accessible supplies that include:

(i) A first aid kit;

(ii) A working flashlight available for use as an emergency light source and extra batteries if the flashlight is powered by batteries;

(iii) A working telephone; and

(iv) Food, water, ~~(and)~~ a three-day supply of medication required by individual children, and supplies for any infants in care such as formula, diapers, wipes, and bags for used diapers.

~~(e) The~~ (f) A provider must practice emergency ~~(and home evacuation drills) preparedness and response plans with the children as follows:~~

(i) ~~(Earthquake and home)~~ Evacuation and relocation drills once every six calendar months; and

(ii) A lockdown or shelter-in-place drill annually.

(9) Child transportation.

(a) A provider must comply with RCW 46.61.687 and other applicable laws that pertain to child restraints and car seats appropriate for the size and age of each child in care;

(b) When caring for children, a provider must:

(i) Drive only with a valid driver's license;

~~(e)~~ (ii) Have in effect a current motor vehicle insurance policy that provides coverage for the driver, the vehicle, and all other occupants;

~~(e)~~ (iii) Ensure that children are accounted for when entering and exiting a vehicle for transport to and from any destination; and

~~(e)~~ (iv) Never leave (the) children (by themselves) unattended in a vehicle.

(10) Supervision of children.

(a) ~~(The)~~ A provider must supervise children during care hours. Supervising children requires ~~(the)~~ a provider to engage in specific actions including, but not limited to:

(i) Scanning the environment, looking and listening for both verbal and nonverbal cues to anticipate problems and planning accordingly;

(ii) Positioning oneself to supervise areas accessible to children; and

(iii) Considering the following when deciding whether increased supervision is needed:

(A) Ages of children;

(B) Individual differences and abilities of children;

(C) Layout of the home where care is provided and play areas; and

(D) Risks associated with the children's activities (~~children are engaged in~~).

(b) ~~((The))~~ A provider must provide increased supervision when the children:

(i) Interact with pets or animals;

(ii) Engage in water or sand play;

(iii) Play in an area in close proximity to a body of water;

(iv) Use a route to access an outdoor play area when the area is not next to the home where care is provided;

(v) Engage in activities in the kitchen;

(vi) Ride on public transportation;

(vii) Engage in outdoor play; and

(viii) Participate in field trips.

(c) ~~((The))~~ A provider must (~~ensure no infant or child is left~~) not leave infants or children unattended during:

(i) Diapering;

(ii) Bottle feeding; or

(iii) Tummy time.

(d) ~~((The))~~ A provider must not allow any person other than a child's parent or authorized individual to have unsupervised access to a child during care hours. For the purpose of this section, individuals authorized to have unsupervised access include:

(i) A government representative including emergency responders who have specific and verifiable authority for access; and

(ii) A person, such as a family member, family friend, or the child's therapist or health care provider, authorized in writing or over the telephone by a child's parent.

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0040 Compliance. (1) If the department determines a provider has failed to comply with a requirement described in this chapter, the department may do one or more of the following:

(a) Offer and provide technical assistance for the purpose of correcting noncompliance issues that arise from WAC 110-16-0015, 110-16-0025, 110-16-0030, or 110-16-0035;

(b) Require an (~~in-home~~) FFN compliance agreement (~~((ICA))~~) for the purpose of correcting noncompliance issues;

(c) Take steps to initiate termination of the provider's participation in the WCCC subsidy programs; and

(d) Take steps to initiate a determination of child care subsidy payment discrepancies pursuant to WAC 110-15-0266 that may have resulted from noncompliance issues.

(2) An (~~in-home~~) FFN compliance agreement (~~((ICA))~~) must contain the following:

(a) A description of the noncompliance issues and the regulations or statutes violated;

(b) A statement from the provider describing the provider's proposed plan to comply with the regulations or statutes;

(c) The date by which the noncompliance issues must be corrected;

(d) A statement of other corrective action that may be required if compliance does not occur by the specified date;

(e) The signatures of the provider and the department representative agreeing to the terms of the (~~(ICA))~~ agreement; and

(f) A statement from the department indicating whether the corrective action requirements were satisfactorily met.

(3) The length of time the department may allow for the provider to make the corrections necessary to be in compliance will be determined by the department with consideration given to:

(a) The seriousness of the noncompliance; and

(b) The threat to the health, safety, and well-being of the children in care.

WSR 21-12-031

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed May 24, 2021, 5:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-20-100.

Title of Rule and Other Identifying Information: Chapter 388-845 WAC, Home and community-based services waivers.

Hearing Location(s): On July 27, 2021, at 10:00 a.m. Due to the COVID[-19] pandemic, the hearing will be virtual. Please see the department of social and health services (DSHS) website for the most current information on how to connect.

Date of Intended Adoption: Not earlier than July 28, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., July 27, 2021.

Assistance for Persons with Disabilities: Contact Katherine Vasquez, rules coordinator, phone 360-664-6097, fax 360-663-6185, TTY 711 relay, email DSHSRPAURulesCoordinator@dshs.wa.gov, by July 13, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to chapter 388-845 WAC align rules with the amendments approved by the Centers for Medicare and Medicaid Services (CMS). The amendments affect all five of developmental disabilities administration's (DDA) home and community-based services (HCBS) waivers and: Update service definitions and service names; change some service limits; add services to various waivers; remove services from various waivers; change eligibility criteria for specific services; change quali-

fied provider criteria for various services; and repeal several sections.

Reasons Supporting Proposal: DDA must comply with federal medicaid rules to continue to receive federal funding. When CMS approves DDA's waiver applications, DDA's rules must align with those approved waiver applications. To enforce federal waiver application requirements, service definitions, service limits, and explanations must be codified in Washington Administrative Code.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.040.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: DSHS, DDA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1589; Implementation and Enforcement: Ann Vasilev, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1551.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

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

Is exempt under RCW 19.85.025(4) because the rules do not affect small businesses.

Explanation of exemptions: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

May 21, 2021
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 21-13 issue of the Register.

WSR 21-12-032
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed May 25, 2021, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-07-049.

Title of Rule and Other Identifying Information: WAC 181-78A-100 curriculum and instruction review. This rule making relates to potential improvements to preparation program review. The proposed changes would align with board

members' key focus areas during preparation program approval and respond effectively to multiple recent legislative changes.

Hearing Location(s): On July 14, 2021, at 8 a.m., at the Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.

Date of Intended Adoption: July 14, 2021.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8:00 a.m., July 12, 2021.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by July 6, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Staff have considered ways to respond to this change to ensure effective performance of educator candidates through additional review of preparation programs. The additional review would be designed to focus on how programs prepare preservice educators who can demonstrate the knowledge, skills, and performance laid out in the standards.

Reasons Supporting Proposal: Staff have considered ways to respond to this change to ensure effective performance of educator candidates through additional review of preparation programs. The additional review would be designed to focus on how programs prepare preservice educators who can demonstrate the knowledge, skills, and performance laid out in the standards.

Statutory Authority for Adoption: Chapter 28A.410 WAC.

Statute Being Implemented: Chapter 28A.410 WAC.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-867-8424; Implementation and Enforcement: PESB, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236.

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

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

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

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

May 24, 2021
Maren Johnson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 21-08-023, filed 3/29/21, effective 4/29/21)

WAC 181-78A-100 Existing approved programs. Providers of programs approved by the board shall comply

with the review process established in this chapter and published by the board.

(1) Teacher and principal preparation programs: The board will annually review performance data of all educator preparation programs based on components and indicators established in this chapter and published by the board. The professional educator standards board will provide annual updated written guidance to providers regarding the submission of annual program data.

(a) Notification: If annual preparation program data analysis indicates that program performance falls below thresholds during any given review period, the board staff will provide written notification to the educator preparation program provider. The educator preparation program provider may choose to submit a response to the board staff. The response must be received by board staff within four weeks following receipt of the notification by the provider. The response should offer evidence of factors and circumstances that explain why program performance is below board approved thresholds on the indicators identified in the notice. The board staff will offer providers guidance on content and timelines for submission of this optional response. The board will review responses concurrently with annual data analysis reports.

(b) Interventions: Providers with program performance below indicator thresholds are subject to graduated levels of intervention as follows:

(i) Intervention 1 - Required self-study report: If a provider that received written notification of performance below threshold on one or more indicators during the previous review period has performance below thresholds on the same indicator(s) during the subsequent review period, the board will send the provider a second notification. The provider must complete a self-study report related to the components and domain(s) identified in both notifications and submit it to the board. The board will give providers written timelines and guidance for the submission of these materials. In the self-study report, the provider may also submit evidence and a description of the provider's performance related to the indicator(s), components, and domains identified in the notifications. If the board is satisfied with the self-study report, the board will approve it at a board meeting. If the board is not satisfied with the self-study report, staff will give providers additional written timelines and guidance to address the board's concerns.

(ii) Intervention 2 - Formal review: If a provider demonstrates performance below thresholds for a third successive review period or more, the professional educator standards board will provide a third notification. Based on its discretion and authorized by a vote, the board also may require a formal review related to the provider's performance in the domains of practice identified in the notifications. Prior to commencing a formal review, the board will consider the notifications, responses, and self-study report to determine whether to proceed with or postpone a formal review.

(A) The formal review will incorporate the following elements:

(I) The board shall determine the schedule ~~((for formal reviews and whether an on-site visit or other forms of documentation and))~~, format, and which forms of validation

~~((will)) shall~~ be used to evaluate programs ~~((under program approval standards))~~.

(II) The provider will submit requested evidence to the board staff.

(III) A review team ~~((, including at least one member of the board,))~~ will review the evidence and request additional information including information provided through interviews with provider staff or affiliates as needed.

The review team may request additional information including information provided through interviews with provider staff or affiliates as needed.

(IV) The review team will provide a report to the board identifying areas of practice associated with the previous notifications where the provider is out of compliance with educator preparation program requirements, expectations, and outcomes established in chapter 181-78A WAC. The review team may also identify areas of practice where the provider is out of compliance with educator preparation program requirements that were not associated with previous notifications but were noticed by the review team during the process of review. The report may also identify whether the approved indicators or thresholds are functioning as intended.

(V) Board staff serving on the review team will provide assistance to the review team during the review process but will not serve in an evaluative role.

(VI) The review team will submit its report and other appropriate documentation to the provider and the board within one year of the board designating the program for formal review.

(VII) The board may extend the length of the one-year period for submission of the review team's report up to two years at its discretion.

(B) Providers may submit a reply to the review team report within two weeks following receipt of the report. The reply is to focus on the evidence, conclusions, and recommendations in the report but also may include additional evidence of factors and circumstances that explain why program performance is persistently below board approved thresholds on the indicators identified in the notice and self-study report. The board shall publish the process for submitting and reviewing the reply.

(C) In considering the review team's report, the board may request additional information or review, or take action to extend, or change the program's approval status per the provisions of WAC 181-78A-110.

(c) A provider may request a hearing in instances where it disagrees with the board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW and will adhere to the process of brief adjudicated hearings. The provider seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035 no more than thirty calendar days from the decision date.

(d) In addition to annual indicator reviews, the board will publish a schedule for ((its review of the domains, components, indicators and thresholds. This review will occur at least every five years and not more frequently than every two

years)) focused curriculum and instruction review for fully approved teacher and principal preparation programs.

(e) The professional educator standards board shall conduct formal reviews to evaluate curriculum and instruction, with particular focus on the cultural competency, diversity, equity, and inclusion standards; the social and emotional learning standards and benchmarks; and the approved preservice educator role standards. The board shall determine the schedule, format, and which forms of documentation and validation shall be used to evaluate programs. The result of the review will be a report. Based on the findings of the report, the board will decide to either renew full approval status or designate the program on limited approval pending action on the findings of the review report.

(i) Curriculum and instruction reviews will be conducted at least every five years and not more frequently than every three years.

(ii) Program providers will submit requested evidence to the staff of the board.

(iii) A review team will review the evidence and request additional information including information provided through interviews with provider staff or affiliates as needed. One board staff member will serve on the review team to provide assistance to the review team during the review process but will not serve in an evaluative role. Members of the review team shall include two preparation program providers at peer programs, at least one P-12 practitioner and one PEAB member with expertise related to the program scheduled for review, and two individuals with expertise related to culturally responsive practice and social and emotional learning.

(iv) Following the review, the review team will provide a report identifying any areas where the program is out of compliance with requirements established under this chapter and the program expectations and outcomes established in WAC 181-78A-220.

(2) Superintendent programs: The board will annually review data related to the performance of all superintendent programs according to data reporting guidance published by the board.

(a) Annual data analysis: After each annual review period, the board will give superintendent program providers written analysis of the program's annual data submission.

(b) Superintendent program review: The professional educator standards board shall determine the schedule for formal reviews ~~((and whether an on-site visit or other forms of documentation and validation shall be used for evaluation))~~.

The board will determine whether a formal review will take place and what forms of documentation and validation shall be used for evaluation.

(i) Superintendent program reviews will be conducted at least every five years and not more frequently than every three years.

(ii) Superintendent program providers will submit requested evidence to the staff of the professional educator standards board.

~~((including at least one member of the professional educator standards board.))~~ (iii) A review team will review the evidence and request additional information including infor-

mation provided through interviews with provider staff or affiliates as needed. One board staff member will serve on the review team to provide assistance to the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include at least one P-12 practitioner with expertise related to the program scheduled for review and two individuals with expertise related to the domains of practice identified in annual written analyses.

(iv) One of the two providers with peer representatives on the review team will be scheduled for annual review during the subsequent review period.

(v) At least three months in advance of scheduled review, superintendent program providers must complete a self-study report related to the components and domain(s) identified in the written analyses of annual data submissions. The board will give providers written timelines and guidance for the submission of these materials. In the self-study report, the provider may also provide evidence and a description of the provider's performance related to the indicator(s), components, and domains identified in the notifications. Evidence shall include such data and information from the annual data submissions required per WAC 181-78A-255(2) as have been designated by the board as evidence pertinent to the program approval process.

(c) Following the review, the review team will provide a report identifying any areas where the program is out of compliance with requirements, expectations, and outcomes established in chapter 181-78A WAC.

(i) The report may also verify or contradict that the approved indicators or thresholds are functioning as intended.

(ii) The board may extend the length of the one-year report period up to two years at its discretion. The review team's report and other appropriate documentation will be submitted to the provider and the board within one year of the board designating the program for formal review.

(iii) Providers may submit a reply to the review team report within two weeks following receipt of the report. The reply is limited to evidence that the review disregarded state standards, failed to follow state procedures for review, or failed to consider evidence that was available at the time of the review. The board shall publish the process for submitting and reviewing the reply.

(iv) In considering the review team's report, the board may request additional information or review, or take action to extend or change the educator preparation program's approval status per the provisions of WAC 181-78A-110.

(d) A provider may request a hearing in instances where it disagrees with the professional educator standards board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW and will adhere to the process of brief, adjudicated hearings. The provider seeking a hearing will provide a written request to the board in accordance with WAC 10-08-035 no more than thirty calendar days from the decision date.

(3) Program administrator programs: The board will annually review data related to the performance of all pro-

gram administrator programs according to data and reporting guidelines published by the board.

(a) Program administrator programs implemented in conjunction with principal preparation programs will be reviewed concurrently with that provider's principal preparation program.

(b) Program administrator programs implemented in conjunction with superintendent preparation programs will be reviewed concurrently with that provider's superintendent preparation program.

(c) Program administrator programs not implemented in conjunction with a principal or superintendent program will be reviewed on a schedule published by the board.

(4) School counseling programs. School counseling program providers shall comply with accrediting procedures for council for the accreditation for counseling and related education programs, unless the program has been specifically approved to operate under alternative national standards per WAC 181-78A-225. The professional educator standards board will review preparation programs' alignment with any additions to the national standards deemed necessary by the professional educator standards board.

(a) A provider of residency school counseling programs without approval from council for the accreditation for counseling and related education programs shall provide proof to the professional educator standards board that it will seek such accreditation, unless the program has been specifically approved to operate under alternative national standards per WAC 181-78A-225.

(b) The board will place any existing approved residency school counseling program not accredited from the council for the accreditation for counseling and related education programs into disapproval status on November 1, 2022, unless the program provider produces evidence of seeking such accreditation, or unless that program has been specifically approved to operate under alternative national standards per WAC 181-78A-225.

(5) School psychology programs. Providers of school psychology programs shall comply with accrediting procedures for the National Association for School Psychology. School psychology program providers shall comply with accrediting procedures for the National Association for School Psychology, unless the program has been specifically approved to operate under alternative national standards per WAC 181-78A-225. The professional educator standards board will review preparation programs' alignment with any additions to the national standards deemed necessary by the professional educator standards board.

(a) A provider of school psychology programs without approval from the National Association for School Psychology shall provide proof to the professional educator standards board that it will seek such accreditation, unless the program has been specifically approved to operate under alternative national standards per WAC 181-78A-225.

(b) The board will place any existing approved school psychology program not accredited from the National Association of School Psychology into disapproval status on November 1, 2022, unless the program provider produces evidence of seeking such accreditation, or unless that pro-

gram has been specifically approved to operate under alternative national standards per WAC 181-78A-225.

(6) Career and technical education administrator and business and industry route educator preparation programs: The board will annually review data related to the performance of all such programs according to data reporting guidance published by the board.

(a) Annual data analysis: After each annual review period, the board will give career and technical education administrator and business and industry route educator preparation program providers written analysis of the program's annual data submission.

(b) Career and technical education administrator and business and industry route educator preparation program review: The board shall determine the schedule, format, and which forms of documentation and validation shall be used to evaluate programs.

(i) Career and technical education administrator and business and industry route educator preparation program reviews will be conducted at least every five years and not more frequently than every three years.

(ii) At least three months in advance of their scheduled review, career and technical education administrator and business and industry route educator preparation program providers must complete a self-study report related to the components and domain(s) identified in the written analyses of annual data submissions. The board will give providers written timelines and guidance for the submission of these materials.

(iii) Career and technical education administrator and business and industry route educator preparation program providers will submit requested evidence to the staff of the professional educator standards board. Evidence shall include such data and information from the annual data submissions required per WAC 181-78A-235(3) as have been designated by the board as evidence pertinent to the program approval and review processes.

(iv) A review team will review the evidence and request additional information including information provided through documents and interviews with program provider staff or affiliates as needed. One board staff member will serve as chair on the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include one member of the program's professional educator advisory board, one P-12 practitioner with expertise in career and technical education related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members, must be identified individuals with expertise related to the domains of practice and standard components identified in annual written program feedback analyses or in the program's self-study report. One of the two providers with peer representatives on the review team will be scheduled for the subsequent program review.

(v) The review team will use multiple data sources to address the specific goals listed in this section.

(A) The review team and the preparation program provider will use the self-study report to identify program provider's goals and strategies for improvement.

(B) The review team and the preparation program provider will use preparation program data available at the time of review.

(C) The review team and the preparation program provider will use evidence compiled by the provider that demonstrates performance aligned with all program standards and requirements. Staff of the board will offer program providers guidance regarding the evidence required, how it may be gathered and used, and how it must be submitted.

(vi) The review team will use available evidence to write the review report that will be used by the board in consideration of continued approval status.

(c) Following the review, the review team will provide a report identifying any areas of practice in which program performance is out of alignment with standards and requirements.

(i) The review team's report and other appropriate documentation will be submitted to the provider and the board within six months of the formal review.

(ii) Providers may submit a reply to the review team report within three weeks following receipt of the report. The board shall publish the process for submitting and reviewing the reply.

(iii) In considering the review team's report, the board may request additional information for review, or take action to extend or change the educator preparation program's approval status.

(iv) Based upon the review team's report, the program provider's response, and any subsequent requests for information, as applicable, the board shall take one of the following actions:

(A) The board shall give full approval as described in WAC 181-78A-110 (1)(a).

(B) Limited approval as described in WAC 181-78A-110 (1)(b).

(C) Disapproval as described in WAC 181-78A-110 (1)(c).

(v) A provider may request a hearing in instances where it disagrees with the board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW and will adhere to the process of brief adjudicated hearings. The provider seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035 no more than thirty calendar days from the decision date.

WSR 21-12-048

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed May 26, 2021, 10:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-08-058.

Title of Rule and Other Identifying Information: Chapter 388-828 WAC, DDA assessment.

Hearing Location(s): On July 27, 2021, at 10:00 a.m. Due to the COVID[-19] pandemic, the hearing will be virtual. Please see the department of social and health services (DSHS) website for the most current information on how to connect.

Date of Intended Adoption: September 11, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on July 27, 2021.

Assistance for Persons with Disabilities: Contact Katherine Vasquez, rules coordinator, phone 360-664-6097, fax 360-664-6185, TTY 711 relay, email DSHSRPAURulesCoordinator@dshs.wa.gov, by July 13, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Developmental disabilities administration (DDA) is amending this chapter to update the DDA assessment rules to reflect the switch from a desktop application to a web-based application. These changes do not affect any algorithms in the assessment that determine eligibility for a service or a client's benefit level.

DDA also amended the definition of "contracted provider" to include both CDE-employed individual providers.

Additional amendments replace outdated terminology, such as "DDD," "ISP," "ADSA," "ICF/MR," "SSPS," etc., and update and clarify language that was inaccurate or ambiguous.

Reasons Supporting Proposal: These changes are necessary to: Remove concepts no longer applicable to the assessment after the switch to a web-based application, align with amendments to other rules establishing the consumer-directed employer, and replace, update, and clarify language that was inaccurate or ambiguous.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: Chapter 71A.16 RCW.

Rule is necessary because of federal law, 42 C.F.R. 441.725 for WAC 388-828-1500.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: DSHS, DDA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1589; Implementation and Enforcement: Erin Fatland, P.O. Box 45310, Olympia, WA 98504-5310, 253-372-5806.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

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

Is exempt under RCW 19.85.025(4) because the rules do not affect small businesses.

Explanation of exemptions: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

May 26, 2021
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 21-13 issue of the Register.

WSR 21-12-052
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed May 26, 2021, 11:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-08-035.

Title of Rule and Other Identifying Information: WAC 314-55-077 Marijuana processor license—Privileges, requirements and fees, and 314-55-079 Marijuana retailer license—Privileges, requirements and fees. The Washington state liquor and cannabis board (board) proposes rule amendments that would allow the board to take disciplinary action against any licensed marijuana processor or retailer failing to comply with the provisions of WAC 246-80-021, concerning the sale of vitamin E acetate. No other amendments or revisions to these sections are being considered at this time.

Hearing Location(s): On July 7, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the board will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public may login using a computer or device, or call-in using a phone, to listen to the meeting through the WebEx application. The public may provide verbal comments during the specified public comment and rules hearing segments. For more information about board meetings, please visit https://lcb.wa.gov/Boardmeetings/Board_meetings.

Date of Intended Adoption: Not earlier than July 14, 2021.

Submit Written Comments to: Rules Coordinator, 1025 Union Avenue, Olympia, WA 98501, email rules@lcb.wa.gov, fax 360-704-5027 by July 7, 2021.

Assistance for Persons with Disabilities: Contact Claris Nhanabu, ADA coordinator, human resources, phone 360-664-1642, fax 360-664-9689, TTY 711 or 1-800-833-6388, email Claris.Nhanabu@lcb.wa.gov, by July 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to make current emergency rules, most recently adopted on April 28, 2021, as WSR 21-10-044, permanent. The emergency rules reference the Washington state

board of health (SBOH) prohibition of the use of vitamin E acetate by any person licensed under chapter 69.50 RCW. WAC 314-55-077 and 314-55-079 would be permanently amended to reference the permanent prohibition of vitamin E acetate as described in WAC 246-80-021.

Reasons Supporting Proposal: Consistent with RCW 69.50.342 (1)(m), the board is authorized to prohibit the use of any type of additive, solvent, ingredient, or compound in the production and processing of marijuana products, including marijuana vapor products, when the board determines, following consultation with the department of health or any other authority the board deems appropriate, that the device, additive, solvent, ingredient, or compound may pose a risk to public health or youth access. Emergency rules regarding the board's ability to take disciplinary action against any licensed marijuana processor or retailer failing to comply with prohibition of the use of vitamin E acetate have been in place since September 16, 2020, as WSR 20-19-080, by extension on January 6, 2021, as WSR 21-02-093, and finally on April 28, 2021. The proposed rule amendments are necessary to provide enforcement continuity of WAC 246-80-021 concerning the permanent prohibition of vitamin E acetate.

Statutory Authority for Adoption: RCW 69.50.342, 69.50.345.

Statute Being Implemented: Not applicable.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: Washington state liquor and cannabis board (LCB), governmental.

Name of Agency Personnel Responsible for Drafting: Katherine Hoffman, Policy and Rules Manager, 1025 Union Avenue, Olympia, WA 98501, 360-664-1622; Implementation and Enforcement: Chandra Brady, Director of Enforcement and Education, 1025 Union Avenue, Olympia, WA 98501, 360-664-1726.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 because the subject of the proposed rule making does not qualify as a significant legislative rule or other rule requiring a cost-benefit analysis under RCW 34.05.328 (5)(c).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Agencies are required to consider costs **imposed** on business and costs associated with compliance with proposed rules. Agencies are **not** required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Fines, penalties, or defense costs associated with enforcement actions for failure to comply with the proposed rules are considered to be indirect costs that are not associated with compliance. Here, the agency considered potential **administrative** costs that a licensee may incur for failure to comply with the proposed rules.

LCB applied the North American Industry Classification System (NAICS) codes 453998 for marijuana stores, both medicinal and recreational, and 424590 for marijuana processors. The industry descriptions for each of these codes is presented in the table below, and can be accessed at <https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html>.

LCB applied a default cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects four hours of administrative time at \$50 per hour, for a total of \$200. The agency assumes this activity would include activities such as completing and submitting forms to LCB, and telephone calls.

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)
453998	\$200	Marijuana stores, medicinal and recreational	All other miscellaneous store retailers (except tobacco stores)	\$3,615.53	\$3,024.31 2018 Dataset pulled from ESD	\$3,615.53 2018 Dataset pulled from DOR
424590	\$200	Marijuana merchant wholesalers	Other farm product raw material merchant wholesalers	\$6,733.79	\$3,684.24 2018 Dataset pulled from USBLS	\$6,733.79 2018 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the thresholds for either of the license types. Therefore, implementation of these rules are not anticipated to result in more-than-minor costs on businesses as defined in RCW 19.85.020(2).

May 26, 2021
David Postman
Chair

AMENDATORY SECTION (Amending WSR 20-01-172, filed 12/18/19, effective 1/1/20)

WAC 314-55-077 Marijuana processor license—Privileges, requirements, and fees. (1) A marijuana processor license allows the licensee to process, dry, cure, package, and label useable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.

(2) Application and license fees.

(a) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a marijuana processor license is one thousand three hundred eighty-one dollars. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(c) The application window for marijuana processor licenses is closed. The board may reopen the marijuana processor application window at subsequent times when the board deems necessary.

(3) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

(4)(a) A marijuana processor that makes marijuana-infused solid or liquid product meant to be ingested orally (marijuana edibles) must obtain a marijuana-infused edible endorsement from the department of agriculture as required under chapter 15.125 RCW and rules adopted by the department to implement that chapter (chapter 16-131 WAC). A licensee must allow the board or their designee to conduct

physical visits and inspect the processing facility, recipes, and records required under WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice.

(b) A marijuana processor licensed by the board must ensure marijuana-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapter 15.125 RCW and rules promulgated to implement chapters 16-131, 16-165 and 16-167 WAC.

(5)(a) A marijuana processor may blend tested useable marijuana from multiple lots into a single package for sale to a marijuana retail licensee so long as the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(b) A processor may not treat or otherwise adulterate useable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable marijuana.

(6) Recipes, product, packaging, and labeling approval.

(a) A marijuana processor licensee must obtain label and packaging approval from the board for all marijuana-infused products meant for oral ingestion prior to offering these items for sale to a marijuana retailer. The marijuana processor licensee must submit a picture of the product, labeling, and packaging to the board for approval. More information on the product, packaging, and label review process is available on the board's website.

(b) All recipes for marijuana-infused products meant for oral ingestion (marijuana edible products) must be approved by the department of agriculture under chapter 16-131 WAC.

Licenses must obtain recipe approval from the department of agriculture prior to submitting any marijuana edible products, packages, and labels for review and approval by the board. The recipe for any marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana processor's licensed premises and made available for inspection by the board or its designee.

(c) If the board denies a marijuana-infused product for sale in marijuana retail outlets, the marijuana processor licensee may request an administrative hearing under chapter 34.05 RCW, Administrative Procedure Act.

(7) With the exception of the marijuana, all ingredients used in making marijuana-infused products for oral ingestion must be a commercially manufactured food as defined in WAC 246-215-01115.

(8) Marijuana-infused edible products in solid or liquid form must be homogenized to ensure uniform disbursement of cannabinoids.

(9) A marijuana processor may infuse food or drinks with marijuana, provided that:

(a) The product or products do not require cooking or baking by the consumer;

(b) Coatings applied to the product or products are compliant with the requirements of this chapter;

(c) The product and package design is not similar to commercially available products marketed for consumption by persons under twenty-one years of age, as defined by WAC 314.55.105 (1)(c).

(10) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with marijuana. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

(11) Other food items that may not be infused with marijuana to be sold in a retail store include:

(a) Any food that has to be acidified to make it shelf stable;

(b) Food items made shelf stable by canning or retorting;

(c) Fruit or vegetable juices (this does not include shelf stable concentrates);

(d) Fruit or vegetable butters;

(e) Pumpkin pies, custard pies, or any pies that contain egg;

(f) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

(g) Dried or cured meats.

(h) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(i) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(12) Consistent with WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources, and use that extraction to prepare allowable mari-

juana-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

The board may designate other food items that may not be infused with marijuana.

(13) Marijuana processor licensees are allowed to have a maximum of six months of their average useable marijuana and six months average of their total production on their licensed premises at any time.

(14) **Processing service arrangements.** A processing service arrangement is when one processor (processor B) processes useable marijuana or an altered form of useable marijuana (marijuana product) for another licensed processor (processor A) for a fee.

(a) Processor A is the product owner. However, processor B may handle the product under its license as provided in chapter 69.50 RCW and this chapter. Processor B is not allowed to transfer the product to a retailer and may only possess marijuana or marijuana products received from processor A for the limited purposes of processing it for ultimate transfer back to processor A.

(b) Processing service arrangements must be made on a cash basis only as provided in WAC 314-55-115 and payment for the service and return of the processed product must be made within thirty calendar days of delivery to processor B. Failure to do so as provided by the preceding sentence is a violation of this section and any marijuana or marijuana product involved in the transaction will be subject to seizure and destruction. Payment with any marijuana products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements.

(c) Each processor that enters into a processing service arrangement must include records for each service arrangement in recordkeeping documents which must be maintained consistent with this chapter.

(15) Marijuana may not be returned by any retail licensee to any processor except as provided in this section.

(a) Every processor must maintain on the licensed premises for a period of five years complete records of all refunds and exchanges made under this section including an inventory of marijuana and marijuana products returned to the processor by any retail licensee.

(b) Marijuana may be returned by a retail licensee in the event a retailer goes out of the business of selling marijuana at retail and a cash refund, as defined by WAC 314-55-115, may be made upon the return of the marijuana or marijuana products, so long as WSLCB approval is acquired prior to returns and refunds under this subsection.

(c) Marijuana products different from that ordered by a retailer and delivered to the retailer may be returned to a processor and either replaced with marijuana products which were ordered or a cash refund, as defined by WAC 314-55-115, may be made. These incorrect orders must be discovered and corrected within eight days of the date the delivery was made to be eligible for returns and refunds under this subsection.

(d) A marijuana processor may accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer. It is the

responsibility of the retailer to ensure the product or sample jar is returned to the processor.

(16) The board may take disciplinary action against any marijuana processor that fails to comply with the provisions of WAC 246-80-021.

AMENDATORY SECTION (Amending WSR 18-22-055, filed 10/31/18, effective 12/1/18)

WAC 314-55-079 Marijuana retailer license—Privileges, requirements, and fees. (1) A marijuana retailer license allows the licensee to sell only useable marijuana, marijuana concentrates, marijuana-infused products, marijuana paraphernalia, and lockable boxes to store marijuana at retail in licensed retail outlets to persons twenty-one years of age and older, except as allowed for persons under twenty-one years of age consistent with RCW 69.50.357 and WAC 314-55-080.

(2) The WSLCB may accept applications for marijuana retail licenses at time frames published on its website at www.lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the WSLCB will determine the maximum number of marijuana retail locations per county.

(a) The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county and to accommodate the medical needs of qualifying patients and designated providers. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated.

(b) The number of retail licenses determined by the board can be found on the WSLCB website at www.lcb.wa.gov.

(3) Any entity and/or principals within any entity are limited to no more than five retail marijuana licenses.

(4) Application and license fees.

(a) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is responsible for fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a marijuana retailer license is one thousand three hundred eighty-one dollars. The WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(5) Internet sales and delivery of product to customers are prohibited.

(6) Sales of marijuana-infused products not permissible under WAC 314-55-077 are prohibited.

(7) Marijuana retailers may not sell marijuana products below the current acquisition cost.

(8) All marijuana products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(9) A marijuana retailer may not sell lockable boxes for less than the cost of acquisition or sell boxes received as a

donation. The donation of lockable boxes must come from a person or entity that is not a licensed marijuana producer, processor, or retailer.

(10) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

(11) A marijuana retailer may transport product to other locations operated by the licensee or to return product to a marijuana processor as outlined in WAC 314-55-085.

(12) A marijuana retailer may accept returns of open marijuana products. Products must be returned in their original packaging with the lot, batch, or inventory ID number fully legible.

(13) A marijuana retailer may dispose of marijuana products as provided in WAC 314-55-097.

(14) The board may take disciplinary action against any marijuana retailer that fails to comply with the provisions of WAC 246-80-021.

WSR 21-12-053

PROPOSED RULES

LOWER COLUMBIA COLLEGE

[Filed May 26, 2021, 12:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-07-102.

Title of Rule and Other Identifying Information: Chapter 132M-113 WAC, Access to student records, and chapter 132M-160 WAC, Admission, registration, graduation, repeal and replace with college policy and procedures as they are duplicative of college policies, state board for community and technical colleges rules, and federal laws.

Hearing Location(s): On July 28, 2021, at 8:30 a.m., join Zoom meeting <https://lowercolumbia.zoom.us/j/85119698630>, Meeting ID 851 1969 8630, One tap mobile +1253 2158782,,85119698630# US (Tacoma), +13462487799,,85119698630# 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), +1 312 626 6799 US (Chicago), +1 646 876 9923 US (New York), +1 301 715 8592 US (Washington DC), Meeting ID 851 1969 8630. Find your local number <https://lowercolumbia.zoom.us/j/85119698630>. Join by SIP 85119698630@zoomcrc.com.

Date of Intended Adoption: July 28, 2021.

Submit Written Comments to: Bryanna Smith, 1600 Maple Street, P.O. Box 3010, Longview, WA 98632, email rulemaking@lowercolumbia.edu, fax 360-442-2129, by July 21, 2021.

Assistance for Persons with Disabilities: Contact Bryanna Smith, phone 360-442-2100, fax 360-442-2129, TTY 800-833-6388, email rulemaking@lowercolumbia.edu, by July 21, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 132M-113 WAC, Access to student records, and chapter 132M-160 WAC, Admission, registration, graduation, repeal and replace with college policy and procedures as they are dupli-

cative of college polices, state board for community and technical colleges rules, and federal laws.

Reasons Supporting Proposal: Lower Columbia College has policies in place that address access to student records, which includes compliance with federal student record laws. The college has policies in place that address admission, registration, and graduation, which align with current state statutes, and therefore the current WAC are unnecessary.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Name of Proponent: Lower Columbia College, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sue Orchard, 1600 Maple Street, P.O. Box 3010, Longview, WA 98632, 360-442-2301.

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

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

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

Is exempt under RCW RCW 19.85.025(3) and 34.05.310 (4)(g)(i).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This change is not anticipated to impose any additional cost[s] on business.

May 21, 2021

Kendra Sprague

Vice President of Foundation
Human Resources and Legal Affairs

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132M-113-010 Student's access to records.
- WAC 132M-113-015 Waiver of student access right.
- WAC 132M-113-020 Release of information—General policy and procedure.
- WAC 132M-113-025 Release of information to or about parents and spouses.
- WAC 132M-113-030 Release of personally identifiable records.
- WAC 132M-113-040 Release of information in emergencies.
- WAC 132M-113-050 College records.
- WAC 132M-113-055 Review of records requests and requests to amend.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132M-160-010 Admission.
- WAC 132M-160-040 Tuition and fee waivers.
- WAC 132M-160-050 Refunds.

WSR 21-12-054

PROPOSED RULES

LOWER COLUMBIA COLLEGE

[Filed May 26, 2021, 12:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-08-032.

Title of Rule and Other Identifying Information: WAC 132M-104-010 Rule on regular meeting for board of trustees and 132M-108-020 Brief adjudicative procedure.

Hearing Location(s): On July 28, 2021, at 8:30 a.m. Join Zoom meeting <https://lowercolumbia.zoom.us/j/85119698630>, Meeting ID 851 1969 8630, One tap mobile +1253215 8782,,85119698630# US (Tacoma), +13462487799,,85119698630# 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), +1 312 626 6799 US (Chicago), +1 646 876 9923 US (New York), +1 301 715 8592 US (Washington DC), Meeting ID 851 1969 8630. Find your local number <https://lowercolumbia.zoom.us/j/85119698630>. Join by SIP 85119698630@zoomrc.com.

Date of Intended Adoption: July 28, 2021.

Submit Written Comments to: Bryanna Smith, 1600 Maple Street, P.O. Box 3010, Longview, WA 98632, email rulemaking@lowercolumbia.edu, fax 360-442-2129, by July 21, 2021.

Assistance for Persons with Disabilities: Contact Bryanna Smith, phone 360-442-2100, fax 360-442-2129, TTY 800-833-6388, email rulemaking@lowercolumbia.edu, by July 21, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 132M-104-010 Rule on regular meeting for board of trustees is duplicative of the Open Public Meetings Act (RCW 42.30.075) and therefore not necessary.

WAC 132M-108-020 Brief adjudicative procedure, needs minor grammatical and formatting corrections and also needs clarification that this WAC applies to appeals pursuant to any other formal rule adopted by the college which specifically provides for a brief adjudicative procedure.

Reasons Supporting Proposal: The Open Public Meetings Act governs the regular meetings for board of trustees and therefore WAC 132M-104-010 is unnecessary.

WAC 132M-108-020 Brief adjudicative procedure, needs minor grammatical and formatting corrections and also needs clarification that this WAC applies to appeals pursuant to any other formal rule adopted by the college which specifically provides for a brief adjudicative procedure.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: Lower Columbia College, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kendra Sprague, 1600 Maple Street, P.O. Box 3010, Longview, WA 98632, 360-442-2121.

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

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

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

Is exempt under RCW 19.85.025(3) and 34.05.310 (4)(g)(i).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This change is not anticipated to impose any additional cost[s] on business.

May 21, 2021

Kendra Sprague

Vice President of Foundation
Human Resources and Legal Affairs

AMENDATORY SECTION (Amending WSR 95-16-069, filed 7/28/95, effective 8/28/95)

WAC 132M-108-020 Brief adjudicative procedure.

This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

~~((1))~~ (1) Appeals from residency classifications made pursuant to RCW 28B.15.013;

~~((2))~~ (2) Appeals from parking and traffic infractions;

~~((3))~~ (3) Appeals from actions from student conduct or disciplinary proceedings;

~~((4))~~ (4) Appeals from actions due to outstanding debts of college employees or students;

~~((5))~~ (5) Appeals from actions regarding loss of eligibility to participate in athletic events;

~~((6))~~ (6) Challenges to the contents of education records pursuant to ((WAC 132M 113-055(2))) 34 C.F.R. Sec. 99.21;

~~((g))~~ (7) Appeals from actions due to mandatory tuition and fee waivers;

(8) Appeals pursuant to any other formal rule adopted by the college which specifically provides for a brief adjudicative procedure.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 132M-104-010 Regular meetings.

WSR 21-12-055

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed May 26, 2021, 12:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-19-013.

Title of Rule and Other Identifying Information: Revised WAC 182-546-0125 Ambulance transportation—Definitions; new WAC 182-546-4700 Ambulance transportation—Ambulance transport fund—Purpose and 182-546-4725 Ambulance transportation—Ambulance transport fund—Notices, payment, and interest.

Hearing Location(s): On July 6, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the health care authority (HCA) is not providing a physical location for this hearing. This promotes social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. To attend the virtual public hearing, you must register in advance for this public hearing https://zoom.us/webinar/register/WN_U5o-2kfASF-VOicuxLPQ3Q. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than July 7, 2021.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by July 6, 2021.

Assistance for Persons with Disabilities: Contact Amber Loughheed, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email amber.loughheed@hca.wa.gov, by June 18, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising WAC 182-546-0125 to: (1) Add definitions for aggregate fee schedule amount and ambulance transport provider; (2) remove chemical dependency professional definition; (3) amend definitions with CDP to substance use disorder; and (4) move medical attestations definition to be in alphabetical order.

The agency is adding new sections (WAC 182-546-4700 and 182-546-4725) for the ambulance transport fund in accordance with chapter 74.70 RCW and for the ambulance transport quality assurance fee.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: Chapter 74.70 RCW, RCW 41.05.021, 41.05.160; ESSB 6534, chapter 354, Laws of 2020.

Statute Being Implemented: Chapter 74.70 RCW, RCW 41.05.021, 41.05.160; ESSB 6534, chapter 354, Laws of 2020.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Stefanie Hale, P.O. Box 45510, Olympia, WA 98504-5510, 360-725-9528.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

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

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

May 26, 2021
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-17-010, filed 8/6/20, effective 9/6/20)

WAC 182-546-0125 Ambulance transportation—Definitions. The following definitions and those found in chapter 182-500 WAC apply to ambulance transportation services.

"Advanced life support (ALS)" - See RCW 18.73.030.

"Advanced life support (ALS) assessment" - Means an assessment performed by ALS trained personnel as part of an emergency response that was necessary because the client's reported conditions at the time of dispatch was such that only an ALS crew was qualified to perform the assessment. An ALS assessment does not necessarily result in an ambulance transport or determination that the client requires an ALS level of service or that the transport will be reimbursed at the ALS rate.

"Advanced life support, Level 1 (ALS1)" - Means the transportation by ground ambulance vehicle and the provision of medically necessary supplies and services including the provision of an ALS assessment or at least one ALS intervention.

"Advanced life support, Level 1 (ALS1) emergency" - Means medically necessary ALS1 services, as previously specified, in the context of an emergency response. An emergency response is one that, at the time the ambulance provider is called, it responds immediately.

"Advanced life support, Level 2 (ALS2)" - Means transportation by ground ambulance vehicle and the provision of medically necessary supplies and services including at least three separate administrations of one or more medica-

tions by intravenous push/bolus or by continuous infusion (excluding crystalloid fluids) or ground ambulance transport, medically necessary supplies and services, and the provision of at least one of the ALS2 procedures listed below:

- (a) Endotracheal intubation;
- (b) Cardiac pacing;
- (c) Chest decompression;
- (d) Creation of a surgical airway;
- (e) Manual defibrillation/cardioversion;
- (f) Placement of central venous line; or
- (g) Placement of intraosseous line.

"Advanced life support (ALS) intervention" - Means a procedure that is in accordance with state and local laws, required to be done by an emergency medical technician intermediate, emergency medical technician advanced, or paramedic.

"Aggregate fee schedule amount" - See RCW 74.70.-020.

"Aid vehicle" - See RCW 18.73.030.

"Air ambulance" - Means a helicopter or airplane designed and used to provide transportation for the ill and injured, and to provide personnel, facilities, and equipment to treat clients before and during transportation. Air ambulance is considered an ALS service.

"Allowable costs" - For the ground emergency medical transportation (GEMT) program only, allowable costs means an expenditure that meets the test of the appropriate Executive Office of the President of the United States, Office of Management and Budget (OMB) Circular.

"Ambulance" - Means a ground vehicle or aircraft designed and used to transport the ill and injured, provide personnel, facilities, and equipment to treat clients before and during transportation, and licensed in accordance with RCW 18.73.140.

"Ambulance transport provider" - See RCW 74.70.-020.

"Bariatric patient" - Means a patient whose weight, height, or width exceeds the capacity standards of a normal ambulance gurney.

"Bariatric transport unit" - Means a specially equipped ambulance designed for the transportation of bariatric patients.

"Base rate" - Means the agency's minimum payment amount per covered trip, which includes allowances for emergency medical personnel and their services, the costs of standing orders, reusable supplies and equipment, hardware, stretchers, oxygen and oxygen administration, intravenous supplies and IV administration, disposable supplies, waiting time, and the normal overhead costs of doing business. The base rate excludes mileage.

"Basic life support (BLS)" - Means transportation by ground ambulance vehicle and the provision of medically necessary supplies and services, including BLS ambulance services as defined in chapter 18.73 RCW. The ambulance must be staffed by a person qualified as an emergency medical technician-basic (EMT basic) according to department of health (DOH) regulations. BLS does not require the ability to provide or deliver invasive medical procedures and services.

"Basic life support (BLS) emergency" - BLS services provided in an emergency response.

"Bed-confined" - Means the client is unable to perform all of the following actions:

- (a) Get up from bed without assistance;
- (b) Unable to bear weight or ambulate;
- (c) Sit in a chair or wheelchair.

"Behavioral health disorder" - Means mental disorders and substance use disorders.

"Bordering city hospital" - Means a licensed hospital in a designated bordering city (see WAC 182-501-0175).

"Brokered transportation" - Means nonemergency transportation arranged by a broker under contract with the agency, to or from covered health care services for an eligible client (also, see "Transportation provider" in WAC 182-546-5100).

"By report" - See WAC 182-500-0015.

~~("Chemical dependency professional (CDP)" - See substance use disorder professional (SUDP):)~~

"Children's long-term inpatient program (CLIP)" - Means psychiatric residential treatment provided as a result of judicial commitment or review of the CLIP committee for children five through seventeen years of age.

"Closest and most appropriate" - The agency-contracted facility or level of care in which the expected clinical benefits (e.g., improved symptoms) outweigh the expected negative effect (e.g., adverse reactions) to such an extent that the treatment or transportation is justified. This facility may not necessarily be the closest provider based solely on driving distance.

"Conditional release" - Means a period of time the client is released from inpatient care to outpatient care, provided that the client continues to meet certain conditions according to RCW 71.05.340.

"Cost allocation plan (CAP)" - Means a document that identifies, accumulates, and distributes allowable direct and indirect costs to cost objectives. The document also identifies the allocation methods used for distribution to cost objectives, based on relative benefits received.

"Designated crisis responder (DCR)" - Means a behavioral health professional appointed by the county or other authority authorized in rule to perform duties specified in chapter 71.05 RCW and who has received (~~(chemical dependency)~~) substance use disorder training as determined by the division of behavioral health and recovery.

"Detention" or "detain" - Means the lawful confinement of a person, under chapter 71.05 RCW.

"Direct costs" - Means all costs identified specifically with a particular final cost objective in order to meet emergency medical transportation requirements. This includes unallocated payroll costs for personnel work shifts, medical equipment and supplies, professional and contracted services, travel, training, and other costs directly related to delivering covered medical transportation services.

"Emergency medical service" - Means medical treatment and care that may be rendered at the scene of any medical emergency or while transporting a client in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

"Emergency medical transportation" - Means ambulance transportation during which a client receives necessary

emergency medical services immediately prior to, or in transit to, an appropriate medical facility.

"Emergency response" - Means a BLS or ALS level of service that has been provided in immediate response to a 911 call or the equivalent.

"Evaluation and treatment facility" - See RCW 71.05.020.

"Federal financial participation (FFP)" - Means the portion of medical assistance expenditures for emergency medical services that are paid or reimbursed by the Centers for Medicare and Medicaid Services (CMS) according to the state plan for medical assistance. Clients under Title 19, U.S. Health Resources and Services Administration (HRSA) are eligible for FFP.

"Gravely disabled" - Means a condition in which a person, as a result of a mental disorder, or as the result of the use of alcohol or other psychoactive chemicals:

- (a) Is in danger of serious physical harm as a result of being unable to provide for personal health or safety; or
- (b) Shows repeated and escalating loss of cognitive control over personal actions and is not receiving care essential for personal health or safety.

"Ground ambulance" - Means a ground vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat clients before and during transportation.

"Indirect costs" - Means the costs for a common or joint purpose benefiting more than one cost objective and allocated to each objective using an agency-approved indirect rate or an allocation methodology.

"Initial detention" - Means the period, up to seventy-two hours, in which a person is involuntarily placed in an evaluation and treatment facility under RCW 71.05.150 or 71.05.153 (see RCW 71.05.160). This period begins on the date and time the evaluation and treatment facility provisionally accepts the client for admission. See definition for "petition for initial detention."

"Interfacility" - Means transportation services between hospitals.

"Invasive procedure" - Means a medically necessary operative procedure in which skin or mucous membranes and connective tissues are cut or an instrument is introduced through a natural body orifice, e.g., an intubation tube. Invasive procedures include a range of procedures from minimally invasive (biopsy, excision) to extensive (organ transplantation). This does not include use of instruments for examinations or very minor procedures such as drawing blood.

"Involuntary Treatment Act (ITA)" - See chapters 71.05 and 71.34 RCW.

"Less restrictive alternative treatment" - Means a program of individualized treatment in a less restrictive setting than inpatient treatment and that includes the services described in RCW 71.05.585.

"Lift-off fee" - Means either of the two base rates the agency pays to air ambulance providers for transporting a client. The agency establishes separate lift-off fees for helicopters and airplanes.

"Loaded mileage" - Means the distance the client is transported in the ambulance.

"Medical attestation" - Means the medical professional is attesting to the fact that the client has a condition that justifies medical transportation and the level of care that is specified by BLS or ALS services and supplies. The condition must also be such that other means of transportation (such as taxi, bus, car, or other means) would be harmful to the client. (See WAC 182-500-0070 for additional information - Medically necessary definition.)

"Medical control" - Means the medical authority upon which an ambulance provider relies to coordinate prehospital emergency services, triage, and trauma center assignment/destination for the person being transported. The medical control is designated in the trauma care plan, by the department of health's (DOH) contracted medical program director, of the region in which the ambulance service is provided.

~~(**"Medical attestation"** - Means the medical professional is attesting to the fact that the client has a condition that justifies medical transportation and the level of care that is specified by BLS or ALS services and supplies. The condition must also be such that other means of transportation (such as taxi, bus, car, or other means) would be harmful to the client. (See WAC 182-500-0070 for additional information - Medically necessary definition.))~~

"Nonemergency ambulance transportation" - Means the use of a ground ambulance to carry a client who may be confined to a stretcher but typically does not require the provision of emergency medical services in transit, or the use of an air ambulance to or from an out-of-state health care service when the out-of-state health care service and air ambulance transportation are prior authorized by the agency. Nonemergency ambulance transportation is usually scheduled or prearranged. See definitions for "prone or supine transportation."

"Parent" - For the purpose of family initiated treatment under RCW 71.34.600 through 71.34.670, means a legal guardian, a person that has been given authorization to make health care decisions for the adolescent, a kinship caregiver who is involved in caring for the adolescent, or another relative who is responsible for the health care of the adolescent who may be required to provide a declaration under penalty of perjury stating that they are a relative responsible for the health care of the adolescent under RCW 9A.72.085.

"Petition for initial detention" - A document required by the superior court of Washington for admission of the client by the evaluation and treatment facility. This form is available on the Washington state superior court mental proceedings rules web page.

"Petition for revocation of a conditional release or less restrictive treatment" - Means a document completed by a designated crisis responder (DCR).

"Point of destination" - Means a health care facility generally equipped to provide the necessary medical, nursing, or behavioral health care necessary to treat the client's injury, illness, symptoms, or complaint.

"Point of pickup" - Means the location of the client at the time the client is placed on board the ambulance or transport vehicle.

"Prehospital care" - Means an assessment, stabilization, and emergency medical care of an ill or injured client by

an emergency medical technician, paramedic, or other person before the client reaches the hospital.

"Prone or supine transportation" - Means transporting a client confined to a stretcher or gurney, with or without emergency medical services being provided in transit.

"Public institution" - Means a facility that is either an organizational part of a government entity or over which a governmental unit exercises final administrative control, (e.g., city/county jails and state correctional facilities).

"Publicly owned or operated" - Means an entity that is owned or operated by a unit of government. The unit of government is a state, city, county, special purpose district, or other governmental unit in the state that has taxing authority, has direct access to tax revenues, or is an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act, Section 4.

"Qualifying expenditure" - Means an expenditure for covered services provided to an eligible beneficiary.

"Secure withdrawal management and stabilization facility" - Means a facility operated by either a public or private agency or by the program of an agency which provides care to voluntary individuals involuntarily detained and committed under this chapter for whom there is a likelihood of serious harm or who are gravely disabled due to the presence of a substance use disorder.

"Service period" - Means July 1st through June 30th of each Washington state fiscal year.

"Shift" - Means a standard period of time assigned for a complete cycle of work as set by each participating provider.

"Specialty care transport (SCT)" - Means interfacility (hospital-to-hospital or hospital-to-skilled nursing facility) transportation of a critically injured or ill client by a ground ambulance vehicle under the command of ALS-trained personnel with additional training above the level of a paramedic.

"Standing order" - Means an order remaining in effect indefinitely until canceled or modified by an approved medical program director (regional trauma system) or attending physician.

"Substance use disorder professional (SUDP)" - Means a person certified as a substance use disorder professional by the department of health (DOH) under chapter 18.205 RCW.

"Transfer-down" - Means a transfer from a higher level facility to a facility of lower or equivalent level of care, or back to the original point of pickup (e.g., referring hospital or skilled nursing facility).

"Transfer-up" - Means a transfer from one hospital to a hospital of higher level care when the transfer and discharging hospital has inadequate facilities or care, or appropriate personnel to provide the necessary medical services required by the client.

"Trip" - Means a transportation one-way from the point of pickup to the point of destination by an authorized transportation provider.

NEW SECTION

WAC 182-546-4700 Ambulance transportation—Ambulance transport fund—Purpose. Chapter 74.70

RCW establishes the quality assurance fee for specified providers of emergency ambulance services through July 1, 2024. The fee is added to base funding from all other sources to support additional medicaid payments. The fee applies to nonpublic and nonfederal providers of emergency ambulance services. This is a dedicated fund established within the state treasury, known as the ambulance transport fund. The ambulance transport fund is used to receive and distribute funds.

NEW SECTION

WAC 182-546-4725 Ambulance transportation—Ambulance transport fund—Notices, payment, and interest. (1) The agency assesses each ambulance transport provider a quality assurance fee to be paid on a quarterly basis.

(2) The agency sends each ambulance transport provider an assessment notice or invoice specified due dates.

(3) The agency assesses interest and penalties on quality assurance fees not paid on the due date according to RCW 43.20B.695.

(a) Fee payments more than sixty days overdue include an assessed penalty equal to the interest charge and payment due for each month for which payment is not received after sixty days.

(b) Any interest or penalties is deposited in the ambulance transport fund.

(c) The agency may waive a portion or all of the interest or penalties, or both.

(4) If a payment is sixty days past due, the agency sends written notice of delinquent fees. After written notice, the agency will deduct the past due payment, along with interest and penalties, from any reimbursement.

eliminating the edTPA as a state level requirement for teacher certification and program completion.

Nonsubstantive updating and clarification changes are also included.

Reasons Supporting Proposal: These rule changes are required by legislation in HB [2SHB] 1028 and supported by our board.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-867-8424; Implementation and Enforcement: PESB, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236.

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

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

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

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

May 28, 2021

Maren Johnson
Rules Coordinator

WSR 21-12-072
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed May 28, 2021, 10:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-07-148.

Title of Rule and Other Identifying Information: WAC 181-78A-231, 181-78A-232, 181-80-010. Implement HB [2SHB] 1028, elimination of edTPA.

Hearing Location(s): On July 14, 2021, at 8 a.m., at Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.

Date of Intended Adoption: July 14, 2021.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8:00 a.m. Monday, July 12, 2021.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by Friday, July 9, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These WAC amendments implement the provisions of HB [2SHB] 1028,

AMENDATORY SECTION (Amending WSR 21-08-023, filed 3/29/21, effective 4/29/21)

WAC 181-78A-231 Teacher, principal, career and technical education administrator, superintendent, and program administrator—Specific program approval domain standard—Candidates and cohorts. Candidates and cohorts. Providers of educator preparation programs recruit, select, support, and prepare diverse cohorts of candidates with potential to be outstanding educators.

(1) Providers conduct strategic and ongoing outreach to identify, recruit, admit, support, and transition promising educator candidates.

(a) Create, foster, and utilize effective partnerships to promote careers in teaching and educational leadership.

(b) Implement a targeted, data-informed outreach strategy that includes robust individualized enrollment support.

(c) Establish and monitor attributes and dispositions beyond academic ability that candidates must demonstrate at admissions and during the program.

(d) Providers of teacher preparation programs develop and utilize candidate recruitment strategies that address state, district, and workforce shortage areas.

(e) Providers of career and technical education business and industry route programs establish and expand meaningful and effective recruitment and admissions partnerships with local school districts.

(2) Providers of educator preparation programs use strategies to recruit, admit, and prepare a greater number of candidates from underrepresented groups including, but not limited to, candidates of color in effort to prepare an educator workforce that mirrors the characteristics of the student population in Washington state public schools.

(a) Demonstrate strategic outreach that is highly accessible and responsive to local communities of color.

(b) Gather and use data to assess strategic outreach to improve responsiveness and effectiveness.

(c) Identify needs and provide supports for enrollment and success in educator preparation programs for local communities of color and candidates representing linguistic and ability diversity.

(3) Providers set, publish, and uphold program admission standards to ensure that all educator candidates and cohorts are academically capable and technically prepared to succeed in educator preparation programs.

(a) Articulate clear criteria and requirements for program entry requirements to applicants.

(b) ~~((Articulate clear expectations for program completion to applicants and candidates.))~~ Publish, and provide to applicants prior to admission, a list of program completion requirements under RCW 28A.410.270(5).

(c) Inform, advise, and support applicants on assessment requirements, timelines, occupational experience requirements, and ~~((passing thresholds for board approved content and pedagogy assessments))~~ other certification requirements.

AMENDATORY SECTION (Amending WSR 21-08-023, filed 3/29/21, effective 4/29/21)

WAC 181-78A-232 Teacher, principal, career and technical education administrator, superintendent, and program administrator—Specific program approval domain standard—Candidate knowledge, skills, and cultural responsiveness. Knowledge, skills, and cultural responsiveness. Providers prepare candidates who demonstrate the knowledge, skills and cultural responsiveness required for the particular certificate and areas of endorsement, which reflect the state's approved standards.

(1) Providers demonstrate effective, culturally responsive pedagogy using multiple instructional methods, formats, and assessments.

(a) Qualified faculty use multiple instructional strategies, pedagogies, and assessments to address candidates' academic language ability levels and cultural and linguistic backgrounds.

(b) Providers create opportunities for faculty members and program personnel to pursue, apply, and practice ongoing professional learning to improve their knowledge, skill, effectiveness, and cultural responsiveness.

(c) Faculty within the program and the unit collaborate among one another, with content specialists, P-12 schools, members of the broader professional community, and diverse members of local communities for continuous program improvement.

(d) Faculty members and program leaders systematically and comprehensively evaluate faculty's effectiveness in teaching and learning.

(2) Providers ensure that completers demonstrate the necessary subject matter knowledge for success as educators in schools.

(a) Candidates demonstrate knowledge and competence relative to the standards related to the role adopted by the board. Providers ensure that candidates in teacher preparation programs demonstrate the most recently published inTASC Standards, candidates in principal programs demonstrate the most recently published NELP - Building Level Standards, and candidates in superintendent programs demonstrate the most recently published NELP - District Level Standards, candidates in program administrator programs demonstrate the most recently published NELP Building or District Level Standards, and candidates in career and technical education educator preparation programs demonstrate and document the career and technical education standards approved by the professional educator standards board.

(b) Teacher candidates must take a board approved basic skills assessment prior to program admission. A provider of a teacher preparation program must assure that all candidates entering the program have successfully met the basic skills requirement under chapter 181-01 WAC at the time of admission. The provider must collect and hold evidence of candidates meeting this requirement.

(c) Teacher candidates must take a content knowledge assessment prior to beginning student teaching. The provider must collect and hold evidence of candidates meeting this requirement. Teacher candidates apply content knowledge as reflected in board approved endorsement competencies. Endorsement assessments are not required for teacher candidates in career and technical education business and industry route programs.

(d) Providers ensure that educator candidates complete ~~((a course))~~ coursework on issues of abuse ~~((as required by))~~ and emotional or behavioral distress in students under RCW 28A.410.035 and WAC ((181-79A-030)) 181-79A-200.

(e) Under RCW 28A.410.040, a teacher candidate whose only baccalaureate degree is in early childhood education, elementary education, or special education must have completed thirty quarter credits, or the equivalent in semester credits or continuing education credit hours, in one academic field in an endorsement area under WAC 181-82A-202.

(f) Candidates for an initial certificate in a career and technical education residency teacher preparation program must complete a minimum of forty-five quarter credits, or the equivalent in semester credits or continuing education credit hours, in the specific career and technical education area for which certification is sought.

(3) Providers ensure that candidates demonstrate pedagogical knowledge and skill relative to the professional standards adopted by the board for the role for which candidates are being prepared.

(a) Candidates demonstrate knowledge and competence relative to the standards related to the role, which were adopted by the board. Providers ensure that candidates in teacher preparation programs demonstrate most recently published inTASC Standards, candidates in principal programs demonstrate most recently published NELP - Building Level Standards, candidates in superintendent programs demonstrate most recently published NELP - District Level Stan-

dards, candidates in program administrator programs demonstrate the most recently published NELP Building or District Level Standards, and candidates in career and technical education educator preparation programs demonstrate and document the career and technical education standards approved by the professional educator standards board.

(b) Faculty and mentors provide regular and ongoing feedback to candidates regarding field based performance that is actionable and leads to improvement in candidates' practice.

(c) Providers demonstrate through structured observation, discussion, surveys, and/or artifacts that program completers effectively apply the professional knowledge, skills, and dispositions that the preparation program was designed to achieve.

(d) Providers (~~ensure that teacher candidates achieve passing scores on~~) may use the edTPA teacher performance assessment (~~(, also known as the pedagogy assessment, approved by the board. Teacher preparation program providers shall require that each candidate engage in a performance assessment process approved by the board. The teacher performance assessment is not required for teacher candidates in career and technical education business and industry route programs. Candidates who participated in the teacher performance assessment field trials or took the pedagogy assessment prior to January 1, 2014, may be recommended for certification by the preparation program without a passing score)~~) as a formative tool as long as notification to candidates is included in all program descriptions under chapter 28A.410 RCW.

(e) Providers of career and technical educator preparation programs provide candidates all necessary guidance to document, demonstrate, and submit for approval the required hours of occupational experience.

(f) In order to ensure that teacher and principal candidates can recognize signs of emotional or behavioral distress in students and appropriately refer students for assistance and support, teacher and principal preparation program providers must incorporate the social emotional standards and benchmarks, and must provide guidance to candidates on related competencies described in RCW 28A.410.270.

(4) Providers ensure that candidates are well prepared to exhibit the knowledge and skills of culturally responsive educators.

(a) Providers offer all candidates meaningful, reflective opportunities to interact with racially and culturally diverse colleagues, faculty, P-12 practitioners, and P-12 students and families.

(b) Providers prepare candidates to adapt their practices based on students' prior experiences, cultural knowledge, and frames of reference to make learning encounters more relevant and effective.

(c) Providers ensure course work explicitly focuses on cultural responsiveness and integrates components of culturally responsive education within and throughout all courses.

(d) Faculty explicitly model equity pedagogy in course work and practica in ways that enable candidates to integrate their own cultural and linguistic backgrounds into classroom activities.

(5) Teacher candidates engage with the since time immemorial curriculum focused on history, culture, and government of American Indian peoples as prescribed in RCW 28B.10.710.

(a) There shall be a one quarter or semester course, or the equivalent in continuing education credit hours, in either Washington state history and government, or Pacific Northwest history and government in the curriculum of all teacher preparation programs.

(b) No person shall be completed from any of said programs without completing said course of study, unless otherwise determined by the Washington professional educator standards board.

(c) Any course in Washington state or Pacific Northwest history and government used to fulfill the requirement of this section shall include information on the culture, history, and government of the American Indian peoples who were the first human inhabitants of the state and the region.

(d) Teacher preparation program providers shall ensure that programs meet the requirements of this section by integrating the curriculum developed and made available free of charge by the office of the superintendent of public instruction into existing programs or courses and may modify that curriculum in order to incorporate elements that have a regionally specific focus.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 181-78A-340 Pilot of multiple measures for the teacher performance assessment.

AMENDATORY SECTION (Amending WSR 21-08-023, filed 3/29/21, effective 4/29/21)

WAC 181-80-010 Basic requirements. (1) Alternative routes to teacher certification programs are partnerships between professional educator standards board-approved preparation program providers, Washington school districts, and other partners as appropriate. These partnerships are focused on district-specific teacher shortage areas. Approved alternative routes partnerships are eligible to apply for the alternative routes block grant and to facilitate alternative route conditional scholarship program as described in RCW 28A.660.050.

(2) Each prospective teacher preparation program provider, in cooperation with a Washington school district or consortia of school districts operating an approved alternative route to teacher certification program must meet the following requirements:

(a) **Partnership requirements.** Alternative routes providers shall establish an alternative routes partnership memorandum of agreement (MOA) between the approved teacher preparation program provider and each partnering district or consortia of districts. Each MOA shall require:

(i) An identification, indication of commitment, and description of the role of approved teacher preparation program provider and partnering district or consortia of districts, including specific duties of each partner;

(ii) The role of each partner in candidate recruitment, screening, selection, and oversight;

(iii) The role of each partner in field placement and student teaching and a description of when each begins within the program;

(iv) The role of each partner in mentor selection, training, and support;

(v) A description of how the district intends for the alternative route program to support its workforce development plan and how the presence of alternative route candidates will advance its school improvement plans.

(b) **Programmatic requirements.** Programs shall uphold the following requirements in addition to requirements and standards listed in chapter 181-78A WAC.

(i) Ensure candidates meet ~~((assessment))~~ requirements for basic skills~~((;))~~ and content knowledge~~((, and performance-based))~~ assessments ~~((per))~~ under RCW 28A.410.220~~((, 28A.410.280;))~~ and chapter 181-78A WAC.

(ii) Fingerprint and character clearance under RCW 28A.410.010 must be current at all times during the field experience for candidates who do not hold a valid Washington certificate.

(iii) Clinical practice for teacher candidates should consist of no less than five hundred forty hours in classroom settings.

(iv) Mentorship requirements must be met in accordance with chapter 181-78A WAC and each candidate must be assigned a mentor. The candidate must receive mentoring for the duration of the residency.

(v) **Teacher development plan:** Ensure the design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's standards for residency certification. The plan must also include:

(A) Identification of one or more tools to be used to assess a candidate's performance once the candidate is about halfway through their residency;

(B) Recognition for relevant prior learning that demonstrates meeting residency certification competencies; and

(C) A description of the criteria that would result in early exit from the program with residency certification.

(vi) **Shortage areas.** Alternative route programs shall enroll candidates in a subject or geographic endorsement shortage area, as defined by the professional educator standards board.

sion (commission), is proposing three new sections of rule to move fees for all license types collected by the commission into the newly created chapter 246-945 WAC. These proposed sections are WAC 246-945-990 Pharmaceutical licensing fees and renewal cycle, 246-945-991 Hospital pharmacy associated clinics fees and renewal cycle, and 246-945-992 Fee payment. The department, in consultation with the commission, is also proposing changing licenses to a two-year renewal cycle for pharmacy professionals as requested by interested parties and adding a new fee for the registration of a remote dispensing site created by the passage of SSB 6086.

Hearing Location(s): On July 6, 2021, at 11:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the department of health (DOH) will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_w1wRPWnXREeTRh0qrEphiA. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: July 14, 2021.

Submit Written Comments to: Cori Tarzwell, 111 Israel Road S.E., Tumwater, WA 98501, email <https://fortress.wa.gov/doh/policyreview>, HSQAfeerules@doh.wa.gov, by July 6, 2021.

Assistance for Persons with Disabilities: Contact Cori Tarzwell, phone 360-236-4981, TTY 711, email hsqafeerules@doh.wa.gov, by June 30, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is threefold. First, this proposal will move all existing fees for license types collected by the commission into the newly created chapter 246-945 WAC. The commission recently completed a nearly three-year project to update all the rules under the commission's authority and combine them into one streamlined chapter, chapter 246-945 WAC. As fees fall under the authority of the secretary of health (secretary), the commission could not move the fee rules as part of that original package. The proposed rule moves: Pharmaceutical licensing fees and renewal cycles in WAC 246-907-030 to 246-945-990; fees for hospital pharmacy associated clinics and renewal cycles in WAC 246-907-0302 to 246-945-991; and rules regarding fee payments in WAC 246-907-040 to 246-945-992.

Second, this proposal transitions licenses to a two-year renewal cycle for pharmacists, pharmacy technicians, pharmacy interns, and pharmacy assistants. This was requested by interested parties during the chapter update which established chapter 246-945 WAC. Effectively, licensees would still pay the same total amount over a two-year period, however licensees would pay that cost one time at the beginning of the two-year license cycle, rather than spreading it across two years.

Finally, this proposal establishes a new fee for the opioid use disorder (OUD) remote dispensing site registration in WAC 246-945-030. SSB 6086 established a registration allowing a pharmacy to apply for a registration that would extend the pharmacy's license to cover a remote dispensing

WSR 21-12-074

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed May 28, 2021, 11:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-14-129.

Title of Rule and Other Identifying Information: Chapter 246-945 WAC, the department of health (department), in consultation with the pharmacy quality assurance commis-

site specifically for FDA-approved medications indicated for the treatment of OUD. SSB 6086 also granted the department authority to establish a fee for this registration. Department staff reviewed this registration and have proposed a fee of \$55. This aligns with fees for similar registration or licenses collected by the commission. Once this fee is in place and the department begins collecting data on the actual cost to maintain this registration, department fiscal staff will review and analyze this fee to determine if any changes are needed. Establishing a registration fee for the OUD remote dispensing sites is necessary as part of implementing SSB 6086. Furthermore, the operational costs of a profession must be fully borne by that profession by law.

Originally the CR-101 for this proposal, WSR 20-14-129, stated the department and commission would consider restructuring the drug researcher fee to allow for a noncontrolled substance researcher fee. However, the commission has determined further evaluation is necessary before a restructuring is feasible, so this item has been removed from this package at this time.

Reasons Supporting Proposal: Moving fees collected by the commission into the chapter recently created and updated by the commission will streamline the rules and make it easier for licensees to find necessary information related to their license. It also aligns the structure of the commission's rules chapter with other professions, making it easier for the public to find information. While the commission could not address the fees and transition to a two-year cycle directly in the chapter rewrite, the commission did create continuing education (CE) rules that align with a two-year renewal cycle. Those sections of the new chapter have a delayed effective date to align with this fee proposal. If this proposal is not adopted, the commission will need to perform additional rule making to adjust the CE sections accordingly.

Establishing a registration fee for the OUD remote dispensing sites is necessary as part of implementing SSB 6086. Furthermore, the operational costs of a profession must be fully borne by that profession by law.

Statutory Authority for Adoption: RCW 43.70.110, 43.70.250; and SSB 6086 (chapter 244, Laws of 2020).

Statute Being Implemented: SSB 6086 (chapter 244, Laws of 2020).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting: Cori Tarzwell, 111 Israel Road S.E., Olympia, WA 98504, 360-236-4981; Implementation: Lindsay Trant, 111 Israel Road S.E., Olympia, WA 98504, 360-236-2932; and Enforcement: Lauren Lyles, 111 Israel Road S.E., Olympia, WA 98504, 360-236-4853.

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

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328, a cost-benefit analysis is not required for fee rule making.

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

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

May 27, 2021
 Jessica Todorovich
 Chief of Staff
 for Umair A. Shah, MD, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 18-21-123, filed 10/18/18, effective 1/1/19)

WAC 246-907-030 Pharmaceutical licensing fees and renewal cycle. (1) Pharmacist, pharmacy technician, pharmacy intern, and pharmacy assistant credentials must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC(~~Part 2~~).

(2) Pharmacy location credentials, controlled substance researcher registration, drug dog handler K9 registration, and other Controlled Substances Act registrations will expire on June 1st of each year.

(3) All other credentials, including health care entity, will expire on October 1st of each year, except the shopkeeper endorsement which expires annually associated with a business license issued by the department of revenue.

(4) The following nonrefundable fees will be charged for pharmacy professionals:

(a) All pharmacy professionals:

Title of fee	Fee
Verification of credential	\$25.00
Duplicate credential	10.00
 (b) Pharmacist:	
((Original)) <u>Initial</u> credential	((200.00)) <u>\$400.00</u>
Renewal	((265.00)) <u>530.00</u>
Late renewal penalty	((135.00)) <u>265.00</u>
Expired credential reissuance	265.00
Inactive credential renewal	265.00
Retired <u>active</u> credential <u>status</u> application	((25.00)) <u>50.00</u>
Retired <u>active</u> credential <u>status</u> renewal	((25.00)) <u>50.00</u>
Temporary <u>practice</u> permit	100.00
Reciprocity (<u>license by license transfer</u>)	465.00

(c) Pharmacy technician:

((Original)) <u>Initial</u> credential	((70.00)) <u>\$140.00</u>	Renewal	55.00
Renewal	((70.00)) <u>140.00</u>	(c) Nonresident pharmacy:	
Late renewal penalty	((50.00)) <u>70.00</u>	Pharmacy credential	
Expired credential reissuance	70.00	((Original)) <u>Initial</u> credential	\$540.00
(d) Pharmacy intern:		Renewal	540.00
((Original)) <u>Initial</u> credential	((45.00)) <u>\$90.00</u>	Late renewal penalty	270.00
Renewal	((45.00)) <u>90.00</u>	Controlled substances authority	
Late renewal penalty	((45.00)) <u>50.00</u>	((Original)) <u>Initial</u> credential	150.00
Verification of internship hours	25.00	Renewal	150.00
Expired credential reissuance	45.00	(d) Controlled substance researcher:	
(e) Pharmacy assistant:		((Original)) <u>Initial</u> credential	\$400.00
((Original)) <u>Initial</u> credential	((35.00)) <u>\$70.00</u>	Renewal	400.00
Renewal	((35.00)) <u>70.00</u>	(e) Other controlled substances act registrations (i.e., analytical laboratories, school laboratories):	
Late renewal penalty	((35.00)) <u>50.00</u>	((Original)) <u>Initial</u> credential	\$360.00
Expired credential reissuance	35.00	Renewal	360.00
(5) The following nonrefundable fees will be charged for pharmaceutical firms:		(f) Drug dog handler K9 registration:	
(a) All pharmaceutical firms:		((Original)) <u>Initial</u> credential	\$55.00
Verification of credential	\$25.00	Renewal	55.00
Duplicate credential	10.00	(g) Health care entity:	
Facility inspection	400.00	Health care entity credential	
(b) Pharmacy (includes hospital pharmacies):		((Original)) <u>Initial</u> credential	\$540.00
Pharmacy credential (for hospital pharmacy associated clinics, see WAC ((246-907-0302)) <u>246-945-991</u>)		Renewal	540.00
((Original)) <u>Initial</u> credential	\$540.00	Late renewal penalty	270.00
Renewal	540.00	Controlled substances authority	
Late renewal penalty	270.00	((Original)) <u>Initial</u> credential	150.00
Pharmacy technician utilization		Renewal	150.00
((Original)) <u>Initial</u> utilization	100.00	(h) Drug manufacturer:	
Renewal	100.00	Manufacturer credential	
Controlled substances authority		((Original)) <u>Initial</u> credential	\$825.00
((Original)) <u>Initial</u> credential	150.00	Renewal	825.00
Renewal	150.00	Late renewal penalty	300.00
With differential hours		Controlled substances authority	
((Original)) <u>Initial</u> credential	55.00	((Original)) <u>Initial</u> credential	150.00
		Renewal	150.00
		(i) Drug wholesaler - Full line:	
		Wholesaler credential	
		((Original)) <u>Initial</u> credential	\$825.00
		Renewal	825.00
		Late renewal penalty	300.00

Controlled substances authority	
((Original)) <u>Initial</u> credential	150.00
Renewal	150.00
(j) Drug wholesaler - Export:	
Wholesaler credential	
((Original)) <u>Initial</u> credential	\$825.00
Renewal	825.00
Late renewal penalty	300.00
(k) Drug wholesaler - OTC only:	
((Original)) <u>Initial</u> credential	\$465.00
Renewal	465.00
Late renewal penalty	235.00
(l) Drug wholesaler - Export nonprofit humanitarian organization:	
Wholesaler credential	
((Original)) <u>Initial</u> credential	\$25.00
Renewal	25.00
Late renewal penalty	25.00
(m) Legend drug sample distributor:	
Distributor credential	
((Original)) <u>Initial</u> credential	\$540.00
Renewal	540.00
Late renewal penalty	270.00
Controlled substances authority	
((Original)) <u>Initial</u> credential	150.00
Renewal	150.00
(n) Poison manufacturer/seller:	
((Original)) <u>Initial</u> credential	\$55.00
Renewal	55.00
Late renewal penalty	50.00
(o) Precursor chemicals:	
((Original)) <u>Initial</u> credential	\$55.00
Renewal	55.00
Late renewal penalty	50.00
(p) Itinerant vendor:	
((Original)) <u>Initial</u> credential	\$55.00
Renewal	55.00
Late renewal penalty	50.00
(q) Sodium pentobarbital for animal euthanization:	
((Original)) <u>Initial</u> credential	\$55.00

Renewal	55.00
Late renewal penalty	50.00
(r) Shopkeeper:	
((Original)) <u>Initial</u> credential	\$55.00
Renewal	55.00
(s) <u>Remote dispensing site for opioid use disorder medications registration:</u>	
<u>Initial credential</u>	<u>\$55.00</u>
<u>Renewal</u>	<u>55.00</u>
<u>Late renewal penalty</u>	<u>50.00</u>

AMENDATORY SECTION (Amending WSR 18-21-123, filed 10/18/18, effective 1/1/19)

WAC 246-907-0302 Hospital pharmacy associated clinics fees and renewal cycle. (1) Parent hospital pharmacy licenses with one or more hospital pharmacy associated clinics (HPAC) expire on June 1st of each year.

(2) A parent hospital pharmacy must submit fees for HPACs in addition to fees set in WAC ((~~246-907-030(4)~~) 246-945-990(5)). HPAC fees are due annually, except as provided under subsection (3)(d) of this section.

(3) A parent hospital pharmacy must submit the following nonrefundable fees based on category and number of HPACs as defined in WAC ((~~246-873A-020~~) 246-945-233(3)) added to the parent hospital pharmacy license.

(a) **Category 1 HPAC.** A parent hospital pharmacy must submit the Category 1 HPAC fee according to the number of Category 1 HPACs under the parent hospital pharmacy license.

HPAC tier	Number of Category 1 HPACs under parent hospital pharmacy license	Total annual fee
A	1-10	\$895.00
B	11-50	\$2,240.00
C	51-100	\$3,125.00
D	Over 100	\$4,025.00

(b) **Category 2 HPAC.** A parent hospital pharmacy must submit the Category 2 HPAC fee for each Category 2 HPAC under the parent hospital pharmacy license.

Category 2 HPAC fee	\$755.00
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(c) The department charges a processing fee of fifty-five dollars for an amended license to change the number of HPACs.

(d) If at any time a parent hospital pharmacy submits an addendum increasing the number of HPACs on the parent hospital pharmacy license, which changes the applicable HPAC tier to a higher fee amount, the parent hospital pharmacy shall submit the difference in fees with the addendum.

(e) The department will not refund fees when a tier reduction occurs between renewal periods.

AMENDATORY SECTION (Amending WSR 91-19-028, filed 9/10/91, effective 10/11/91)

WAC 246-907-040 Fee payment. (1) A licensed pharmacist, wholesaler, or manufacturer shall pay a facility inspection fee in lieu of the original license fee when there is only a change of facility location within the premises identified by the license address. Any change of location to a different address shall require a new application and payment of the original license fee.

(2) An original license fee shall be paid whenever there is any change in ownership, including change in business structure or organizational structure such as a change from sole proprietorship to a corporation, or a change of more than fifty percent ownership in a corporation.

(3) All fees for pharmacy professionals are charged on ~~((an annual))~~ a biennial basis and will not be prorated.

(4) All fees for pharmaceutical firms are charged on an annual basis and will not be prorated.

NEW SECTION

The following sections of the Washington Administrative Code are decodified and recodified as follows:

Old WAC Number	New WAC Number
246-907-030	246-945-990
246-907-0302	246-945-991
246-907-040	246-945-992

WSR 21-12-076
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed May 28, 2021, 12:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-12-089.

Title of Rule and Other Identifying Information: The department is planning to amend WAC 388-458-0011 DSHS sends you a denial letter when you can't get benefits.

Hearing Location(s): On July 6, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>; or virtually. Due to the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than July 7, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU

RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. [no date supplied].

Assistance for Persons with Disabilities: Contact Katherine Vasquez, DSHS rules coordinator, phone 360-664-6097, fax 360-664-6185, TTY 711 relay service, email Vasquki@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Planned amendments to WAC 388-485-0011 support processes and procedures when mailing a denial notice to a client who has not provided information on the thirtieth day after application.

Reasons Supporting Proposal: Planned amendments to WAC 388-485-0011 will align rule language with that of current federal regulation.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510.

Rule is necessary because of federal law, 7 C.F.R. 273.10 (g)(1)(ii).

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Patrick Budde, P.O. Box 45470, Olympia, WA 98504-5470, 360-764-0068.

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

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(iii) which states in-part, "This section does not apply to ... rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes ...["]

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

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These amendments do not impact small businesses. They only impact DSHS clients.

May 28, 2021
 Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-18-005, filed 8/22/13, effective 10/1/13)

WAC 388-458-0011 DSHS sends you a denial letter when you can't get benefits. (1) When we finish processing your application, we send you a denial letter if you cannot get benefits.

(2) On this letter, we tell you:

- (a) Why you cannot get benefits;
- (b) The rules that support our decision;
- (c) The date we finished processing your application; and

(d) Your right to have your case reviewed or ask for an administrative hearing.

(3) If we are denying your application because you did not give us information that we needed and we ~~((can't))~~ cannot figure out if you are eligible without it, we also tell you ~~((on))~~ in the letter:

(a) What ~~((information you didn't give to us))~~ to do so your application can be reconsidered;

(b) The date ~~((we asked for))~~ the information ~~((and the date it))~~ was due;

(c) That we cannot figure out if you can get benefits without ~~((this))~~ that information; and

(d) That we will review your eligibility if:

(i) For cash assistance, you give us the information within thirty days of the date of the notice; or

(ii) For food assistance, you give us the information within sixty days of the date you applied.

(4) We send denial letters to you according to the rules in chapter 388-406 WAC.

WSR 21-12-087
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 1, 2021, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-16-129.

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-436-0055 What is the disaster cash assistance program (DCAP)?

Hearing Location(s): On July 6, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually. Due to the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than July 7, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. [no date supplied].

Assistance for Persons with Disabilities: Contact Katherine Vasquez, DSHS rules coordinator, phone 360-664-6097, fax 360-664-6185, TTY 711 relay service, email vasquki@dshs.wa.gov, by June 23, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments will update and clarify disaster cash assistance program rules.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.660, 74.08.090, 74.08A.230.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sarah Garcia, P.O. Box 45470, Olympia, WA 98504, 360-522-2214.

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

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: The proposed amendments do not impact small businesses. They only impact DSHS clients.

May 28, 2021
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-18-008, filed 8/22/08, effective 9/22/08)

WAC 388-436-0055 What is the disaster cash assistance program (DCAP)? Disaster cash assistance program (DCAP) is paid through the consolidated emergency assistance program (CEAP) and is designed to provide cash assistance to individuals and families who face an emergency and do not have the money to meet their basic needs.

(1) DCAP is available if you meet all of the following:

(a) You suffered losses ~~((and))~~;

(b) You live in an area that has been declared a disaster ((for individuals by)) or where the Governor((-)) has declared a state of emergency;

~~((b) You are not able to live in your home or you cannot return to your home because of the disaster;~~

~~((c) Your home in the disaster area is your primary residence (not a vacation home) and you were living there at the time of the disaster;~~

~~((d))~~ (c) You are a resident of Washington state as defined in WAC 388-468-0005;

~~((e))~~ (d) Your net income is under the limits in WAC 388-436-0050(1); and

~~((f))~~ (e) You or your family is not eligible for any other program that could meet your need as stated in WAC 388-436-0030.

((2)) (2) In the event of a declared disaster, you must also meet the following:

(a) You are not able to live in your home or you cannot return to your home because of the disaster; and

(b) Your home in the disaster area is your primary residence (not a vacation home) and you were living there at the time of the declared disaster.

(3) Applicants must demonstrate a financial need for emergency funds for one or more of the following basic requirements:

(a) Food;

(b) Shelter;

(c) Clothing;

(d) Minor medical care;

(e) Utilities;

(f) Household maintenance supplies; or

(g) Necessary clothing or transportation costs to accept or retain a job or

(h) Transportation for a minor, not in foster care, to a home where care will be provided by family members or approved caretakers.

((3)) (4) DCAP benefits are only available to households when the Governor issues an order under RCW 74.04.660(6) extending CEAP benefits to households without children.

(5) Payments under this program are limited to not more than thirty consecutive days within a period of twelve consecutive months, except when this limitation under RCW 74.04.660(1) is waived by proclamation of the Governor. The Governor's proclamation will determine the frequency if the thirty day limitation is waived.

(6) The department may discontinue program benefits issuances when the state of emergency or disaster declaration ends or when the Governor's Order under RCW 74.04.660(6) or the authority thereunder expires or is terminated.

(7) The department may discontinue the program benefits issuances when the funds appropriated for DCAP are exhausted.

WSR 21-12-089
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 1, 2021, 3:07 p.m.]

Continuance of WSR 21-11-082.

Preproposal statement of inquiry was filed as WSR 19-21-154.

Title of Rule and Other Identifying Information: Proposed changes to the elevator rules and fees under chapter 296-96 WAC, Safety regulations and fees for all elevators, dumbwaiters, escalators and other conveyances.

Hearing Location(s): On June 29, 2021, at 9:00 a.m., virtual and telephonic hearing only. Please join on your computer or mobile app (Microsoft Teams). Click here to join the meeting or visit [https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZDU3M2MzMzMzItM2Q2Ni00NjY4LWF1YjgtMGE3MjJlMjc3ZWJh%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22acb1df6f-3588-43aa-b503-63aebce21ddc%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZDU3M2MzMzItM2Q2Ni00NjY4LWF1YjgtMGE3MjJlMjc3ZWJh%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22acb1df6f-3588-43aa-b503-63aebce21ddc%22%7d), or call (audio only) 1-253-372-2181, Phone Conference ID 677 306 348# (pound sign must be entered); or on June 30, 2021, at 9:00 a.m., Please join on your computer or mobile app (Microsoft Teams). Click here to join the meeting or visit https://teams.microsoft.com/l/meetup-join/19%3ameeting_YzNlYWZlYzMtOGNmMy00YTg5LTk5NTktMDJmNzRhYjRiM2I0%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22acb1df6f-3588-43aa-b503-63aebce21ddc%22%7d, or call (audio only) 1-253-372-2181, Phone Conference ID 287 157 409# (pound sign must be entered). The virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: August 31, 2021.

Submit Written Comments to: Alicia Curry, Department of Labor and Industries (L&I), P.O. Box 44400, Olympia, WA 98504-4400, email Alicia.Curry@Lni.wa.gov, fax 360-902-5292, by June 30, 2021.

Assistance for Persons with Disabilities: Contact Alicia Curry, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, by June 14, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: L&I is filing a continuance of the proposal (WSR 21-11-082) **to correct the public hearing locations information.** The originally scheduled public hearing dates and times remain the same.

The purpose of this rule making is to propose amendments to the state's elevator rules and fees under chapter 296-96 WAC.

L&I has reviewed the elevator rules to address requests from stakeholders held over from a past 2018 rule-making process and to further update and clarify existing rules. Washington's elevator stakeholders were invited to participate in the review, submit proposals for changes to the rules, and provide recommendations to L&I regarding possible rule changes. A technical advisory committee (TAC) of industry experts and the elevator safety advisory committee (ESAC) reviewed the proposals and provided recommendations to L&I on adoption of the rules. This rule-making proposes amendments based on the review and stakeholder recommendations to improve public safety.

L&I has also evaluated the elevator program's budget and projected revenue and a fee increase is needed to support operating expenses for inspections of conveyances and other elevator program public safety activities.

Reasons Supporting Proposal: This rule making proposes changes based on recommendations from L&I, TAC, and ESAC identified during the 2019 rule development process, as well as other changes needed for the improvement of public safety. A fee increase enables the elevator program to continue providing quality and timely services to customers to protect structures, workers, and the public from conveyance incidents.

Statutory Authority for Adoption: Chapter 70.87 RCW.

Statute Being Implemented: Chapter 70.87 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Gerald Brown, Program Manager, Tumwater, Washington, 360-902-6456; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Alicia Curry, L&I, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Most of the proposed rule changes are exempt from the small business economic impact analysis [statement] (SBEIS) requirements under RCW 19.85.025. Those changes that are not exempt from the SBEIS requirement include: Requiring the installation of an accessible stop switch from the elevator landing for existing elevators, disallowing alternative testing, removing special purpose elevators from the (04) elevator mechanic licensing category, requirements for a signature on continuing education certificates, changes to the plan approval exceptions for residential incline chairlifts, fee increases for technical services and consultations and accident investigations, requiring an access door to the elevator motor brake in private residence elevators, allowing the installation of a slightly reduced railing height in existing elevators based

upon existing instruction conditions, and requiring the posting of an overhead sign when guardrail clearances are less than allowed by code. To calculate costs, L&I identified the businesses who are potentially affected by the proposed rule and the estimated costs of compliance. The estimated average compliance cost per active conveyance owned would be \$6.24 to \$9.36 annually. For owners of more than one conveyance, the cost per owner was estimated by multiplying the estimated cost per conveyance by the number of conveyances owned. Owners with nine or fewer conveyances (ninety-seven percent) are estimated to incur less than \$84.28 in annual cost, while owners with more than one hundred conveyances can incur as much as \$3,211.86 per year. For the 99.24% of owners that own twenty-five or fewer conveyances, the annual cost would be \$234 or less. The industry affiliation for all these businesses is unknown so L&I is not able to calculate the minor cost threshold for these industries. However, given the magnitude of this average cost, L&I believes it is unlikely it will exceed minor cost threshold by any of the above criteria (one percent of annual payroll, or the greater of three-tenths of one percent of annual revenue or one hundred dollars). For the companies that have more than twenty-five conveyances, they have minor cost thresholds (one percent of annual payroll) greater than \$3,211, the largest possible cost to any affected businesses. This clearly indicates the average per-business cost of these proposed rule amendments is far below the threshold for businesses in any of the affected industries identified in the SBEIS as potentially impacted by the rule. As such, L&I is exempt from conducting an SBEIS for this rule making.

June 1, 2021
 Joel Sacks
 Director

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-00650 Adopted standards.

ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators	American Standard Safety Code (ASA) A17.1, 1960	11/1/1963	12/29/1967	Adopted Standard

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Moving Walks	American Standard Safety Code (ASA) A17.1.13, 1962	11/1/1963	12/29/1967	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	U.S.A. Standards USAS A17.1-1965 Supplements A17.1a-1967 A17.1b-1968 A17.1c-1969	12/30/1967	2/24/1972	Adopted Standard USAS 1965 includes revision and consolidation of A17.1-1960, A17.1a-1963, & A17.1.13-1962. Adopted code and supplements, excluding Appendix E & ANSI A17.1-1970.
Elevators, Dumbwaiters, Escalators, and Moving Walks	American National Standards Institute A17.1-1971	2/25/1972	6/30/1982	Adopted Standard as amended and revised through 1971.

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1-1971; A17.1a-1972	2/25/1972	6/30/1982	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1-1981	7/1/1982	1/9/1986	Adopted Standard
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a-1982	3/1/1984	1/9/1986	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b-1983	12/1/1984	1/9/1986	Adopted Supplement, except portable escalators covered by Part VIII A17.1b-1983.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1-1984	1/10/1986	12/31/1988	Adopted Standard Except Part XIX. After 11/1/1988 Part II, Rule 211.3b was replaced by WAC 296-81-275.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1a-1985	1/10/1986	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1b-1985 A17.1c-1986 A17.1d-1986 A17.1e-1987	12/6/1987	12/31/1988	Adopted Supplement
Elevators, Dumbwaiters, Escalators, and Moving Walks	ANSI A17.1-1987	1/1/1989	12/31/1992	Adopted Standard Except Part XIX and Part II, Rule 211.3b. WAC 296-81-275 replaced Part II, Rule 211.3b.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1-1990	1/1/1993	2/28/1995	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1-1993	3/1/1995	6/30/1998	Adopted Standard Except Part XIX and Part V, Section 513. Chapter 296-94 WAC replaced Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1-1996	6/30/1998	6/30/2004	Adopted Standard Except Part V, Section 513.
Elevators, Dumbwaiters, Escalators, and Moving Walks	ASME A17.1-2000 A17.1a-2002 A17.1b-2003	7/1/2004	1/1/2008	Adopted Standards and Addenda Except Rules 2.4.12.2, 8.6.5.8 and Sections 5.4, 7.4, 7.5, 7.6, 7.9, 7.10, 8.10.1.1.3 and 8.11.1.1.
Safety Standards for Platform Lifts and Stairway Chairlifts	ASME A18.1-1999 A18.1a-2001 A18.1b-2001	7/1/2004	1/1/2008	Adopted Standards and Addenda.
Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose	ASME A17.1-2004 A17.1a-2005	1/1/2008	1/1/2014	Adopted Standards and Addenda Except Rules 2.4.7.2, marked car top clearance space, 8.6.5.8, Maintenance of safety bulkhead, 5.4, Private residence incline elevators, 7.4 & 7.5 & 7.9 & 7.10 Material lifts, 8.10.1.1.3 and 8.11.1.1, QEI-1 inspector.
Safety Code for Platform Lifts and Stairway Chairlifts	ASME A18.1-2005	1/1/2008	(1/1/2014) <u>9/30/2018</u>	
Safety Code for Belt Manlifts	ASME A90.1-2003	1/1/2008	(1/1/2014) <u>9/30/2018</u>	
Safety Code for Personnel Hoists, Retroactive	ANSI A10.4-2004	1/1/2008	(1/1/2014) <u>9/30/2018</u>	
Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, Special Purpose	ASME A17.1-2010	1/1/2014	((8/31/2018)) <u>9/30/2018</u>	

NATIONAL ELEVATOR CODES AND SUPPLEMENTS ADOPTED				
TYPE OF CONVEYANCE	CODE AND SUPPLEMENTS	DATE INSTALLED		COMMENTS
		FROM	TO	
Standard for Elevator Suspension, Compensation, and Governor Systems	ASME A17.6-2010	1/1/2014	Current	
Safety Code for Platform Lifts and Stairway Chairlifts	ASME A18.1-2011	1/1/2014	((8/31/2018)) 9/30/2018	
Safety Code for Belt Manlifts	ASME A90.1-2009	1/1/2014	((8/31/2018)) 9/30/2018	
Safety Code for Personnel Hoists	ANSI A10.4-2007	1/1/2014	((8/31/2018)) 9/30/2018	
Safety Code for Elevators, Escalators, Dumbwaiters, Residential Elevators, and Special Purpose	ASME A17.1-2016/CSA B44-16	((9/1/2018)) 10/1/2018	Current	
Guide for Inspection of Elevators, Escalators, and Moving Walks	ASME A17.2-2017	((9/1/2018)) 10/1/2018	Current	
Safety Code for Existing Elevators and Escalators	ASME A17.3-2015	((9/1/2018)) 10/1/2018	Current	
Safety Standards for Platform Lifts and Stairway Chair Lifts	ASME A18.1-2017	((9/1/2018)) 10/1/2018	Current	
Safety Code for Belt Manlifts	ASME A90.1-2015	((9/1/2018)) 10/1/2018	Current	
Safety Code for Personnel Hoists	ASSE/ANSI A10.4-2016	((9/1/2018)) 10/1/2018	Current	
Safety Code for Material Hoists	ASSE/ANSI A10.5-2013	((9/1/2018)) 10/1/2018	Current	

Note: Copies of codes and supplements can be obtained from the following: The American Society of Mechanical Engineers (ASME), Order Department 150 Clove Road, 6th Floor, Little Falls, New Jersey 07424-2138 or by visiting www.asme.org. The American Society of Safety Engineers (ASSE) 1800 East Oakton Street, Des Plaines, IL 60018-2187 or by visiting www.asse.org.

Comments: Codes adopted by this chapter will be identified with the applicable ASME/ANSI code reference number contained within the rules or as excluded or amended in WAC 296-96-00675.

AMENDATORY SECTION (Amending WSR 19-15-118, filed 7/23/19, effective 9/1/19)

WAC 296-96-00675 Amendments to adopted standards. (1) Exclude all references to QEI certification in ASME A17.1/CSA B44, ASME A18.1, and ANSI/ASSE A10.4 from code adoption.

(2) ASME A17.1/CSA B44, Section 1.2 Purpose and Exceptions amended as follows: The purpose of this code is to provide for the safety of life and limb, and to promote the public welfare. Compliance with these rules shall be achieved by:

(a) Conformance with the requirements in ASME A17.1/CSA B44 as amended by this chapter; or

(b) Conformance with a combination of requirements in ASME A17.1/CSA B44, this chapter, and ASME A17.7/CSA B44.7 with the following ASME A17.7/CSA B44.7 inclusions:

(i) All system or component certifications performed by an Accredited Elevator/Escalator Certification Organization (AECO) under ASME A17.7/CSA B44.7 shall be approved by the department before any such system or component is allowed to be permitted or installed in the state of Washington.

(ii) The applicant shall provide the certificate of certification for the device or system evaluated by an AECO.

(iii) The department has the final authority regarding acceptance of any item in ASME A17.7/CSA B44.7. The department may remove approval if a design has changed or unforeseen or undisclosed information is obtained.

(iv) The department will post the specific ASME A17.7/CSA B44.7 AECO certificate including exceptions agreed upon. At that time the certificate and exceptions become part of the adopted rule in the state of Washington and not subject to a variance process. The installer shall include the certificate and exceptions and all required information on each conveyance installed utilizing the ASME A17.7/CSA B44.7 method in the Maintenance Control Program documentation.

(v) The department may charge an additional fee for each item in review based upon the variance fee table.

(c) Additions or modifications to adopted standards and/or this chapter shall require approval from the department.

(3) ASME A17.1/CSA B44, Section 5.8, Marine Elevators. This section only applies to elevators installed on board a marine vessel flying the Washington state flag and under one hundred gross metric tons.

(4) ASME A17.1/CSA B44, Section 5.11, Wind Turbine Elevator is not adopted.

(5) Periodic tests and inspections. Pursuant to requirements 8.6.1.7 and 8.11.1.3, the department adopts ASME A17.1/CSA B44, Appendix N for the frequency of periodic

tests. Pursuant to RCW 70.87.120 (2)(a) periodic inspections shall be performed annually.

(6) ASME A17.1/CSA B44 requirement 8.11.1.1.2 is not adopted. The department shall be permitted to witness periodic tests when the department deems necessary.

(7)(~~(a)~~) ASME A17.1-2016/CSA B44-16, 8.6.11.1 Firefighters' Emergency Operation is amended as follows: All elevators provided with firefighters' emergency operation shall be subjected quarterly, by authorized personnel, to Phase I recall by use of the keyed switch, and a minimum of one-floor operation on Phase II. Deficiencies shall be corrected. A record of findings shall be available to elevator personnel and the authority having jurisdiction.

(~~(b)~~) (8) Append ASME A17.1-2016/CSA B44-16, 8.6.4.19.6 as follows: At least once each year, the fire alarm initiating devices associated with elevator recall and shunt trip initiating devices shall be tested to ensure they are still properly interfaced with the elevator control.

This test applies to electric and hydraulic elevators.

(9) ASME A17.3 requirement 3.10.3 is modified as follows: Where the car top stop switch located in the inspection control station is not accessible from the landing, a separate car top stop switch shall be provided as required by ASME A17.1/CSA B44, 2.26.1.4.2(a).

(10) The department will not allow the 8.6.11.10 "Category 5 Tests Without Load Via Alternative Test Methodologies" portion of ASME A17.1 to be followed in Washington. Standard testing as outlined in ASME A17.1 shall be followed.

AMENDATORY SECTION (Amending WSR 18-18-068, filed 8/31/18, effective 10/1/18)

WAC 296-96-00904 License requirements for elevator contractors. (1) Any sole proprietor, firm or corporation wishing to engage in the business of installation, alteration, service, replacement of maintenance of equipment covered by this chapter within the state of Washington shall apply for a license with the department of labor and industries.

The entities above shall obtain and maintain a valid specialty or general contractor registration under chapter 18.27 RCW to engage in the business of conveyance work.

(2) The potential licensee shall complete and submit a department-approved application. As part of the application the following shall be provided:

(a) The employee who is the licensed elevator contractor's primary point of contact.

(b) The number of years the applicant has been engaged in the business of installing, constructing, altering, replacing, maintaining, removing, dismantling and/or servicing conveyances.

(c) Documentation that at least one licensed elevator mechanic is employed by the applicant.

(3) The person representing the company, firm or corporation who is applying for the elevator contractor's license shall be considered the company's primary point of contact and shall:

(a) Provide acceptable proof to the department that shows that the person representing the company, firm, or corporation has five years of work experience in performing

conveyance work as verified by current and previous state of Washington elevator licenses; or

(b) Pass a written examination administered by the department on chapter 70.87 RCW and this chapter with a minimum score of seventy percent.

(c) Failure to pass the examination will require the submittal of a new application.

(4) Pay the fees specified in WAC 296-96-00922.

(5) The department may deny application or renewal of a license under this section if the applicant owes outstanding final judgments to the department.

(6) If the primary point of contact identified in subsection (2)(a) of this section separates employment, his/her relationship or designation is terminated, or death of the designated individual occurs, the elevator contractor shall, within ninety days, designate a new individual who has met the requirement noted above to serve as the elevator contractor's primary point of contact. The elevator contractor shall inform the department of the change in writing or the contractor's license will be automatically suspended.

(7) Where unique or product-specific procedures or methods are required to inspect or test equipment, such procedures, or methods shall be:

(a) Provided in the maintenance control program.

(b) Provided by the manufacturer or installer or their license may be suspended.

(c) Available to owners for their use or used by their qualified service provider.

(d) Accessible on-site to elevator personnel (see also ASME A17.1-8.6.1.2.1(f)).

(e) Where special tools or devices are necessary for maintenance and testing of conveyances, they shall remain on-site for the life of the conveyance.

(8) Contractor licenses may be revoked for failure to comply with this subsection.

Legal maintenance contracts notwithstanding, all elevator companies and other approved maintenance providers (see RCW 70.87.270) who continuously demonstrate non-compliance with the maintenance, examination, testing, documentation, and performance of work outlined in ASME A17.1/CSA B44 and this chapter shall:

(a) Be notified in writing by the department outlining the reason or reasons for noncompliance;

(b) Respond to the department inquiry within fifteen days;

(c) Outline a solution(s) agreeable to the department within thirty days;

(i) Otherwise the elevator company's license may be suspended until such a time as they can demonstrate compliance; and

(ii) Other approved maintenance providers shall cease maintenance, examination, and testing until such a time as they can demonstrate compliance. Continuous demonstrations of maintenance, examination, and testing noncompliance shall result in approval being revoked.

AMENDATORY SECTION (Amending WSR 19-24-086, filed 12/3/19, effective 12/3/19)

WAC 296-96-00906 License requirements for elevator mechanics. (1) Any person wishing to engage in the installation, alteration, service, replacement or maintenance of equipment covered by this chapter within the state of Washington shall apply for a license with the department of labor and industries.

(2) Applicants for a category (01) license as identified under WAC 296-96-00910 shall demonstrate at least one of the following qualifications in order to obtain a license without an exam:

(a) Successfully completed an apprenticeship training program for elevator mechanics and have passed the final examination required by such program; or

(b) Performed at least five thousand four hundred hours of acceptable work experience in construction, installation, maintenance, service or repair of elevators or other conveyances subject to this chapter, as verified by current and prior employers, and have passed a nationally recognized elevator mechanic's examination, such as that administered by the National Elevator Industry Education Program or as approved by the department; or

(c) Possess an elevator mechanic's license from another state that has standards substantially equal to those established in this chapter.

(3) Any person wishing to obtain a category (01) license coming from another state without licensing may obtain a license with examination by paying the required fee and submitting an application with documentation demonstrating the applicant has worked as an elevator mechanic without supervision for at least five thousand four hundred hours.

(4) Conditions for temporary elevator mechanics: In the event an elevator contractor encounters a verifiable shortage of licensed mechanics, an elevator contractor may request that the department issue temporary elevator mechanic licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Each license shall recite that it is valid for one year to the holder as long as he or she is employed by the licensed elevator contractor that certified the individual as qualified.

As part of the initial licensing process the applicant shall(+) have seventy-five percent of both education and training hours to obtain a license (see WAC 296-96-00908).

(5) Conditions for emergency elevator mechanics: If the governor should declare a state of emergency due to a disaster, or an act of God, or other extenuating circumstances and the number of persons in the state holding valid licenses is insufficient to cope with the emergency, an elevator contractor may request emergency elevator mechanic licenses for persons who are not licensed to perform work subject to this chapter but are certified by the elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Each such license shall be valid for a period of thirty days and renewable as long as the emergency exists.

(6) The department may deny renewal or application, or suspend an individual's license if they have an outstanding final judgment.

(7) Qualify for licensing:

(a) For conveyance work covered by all categories identified in WAC 296-96-00910 except personnel hoists (04), material lifts (05), residential conveyances (06), residential inclined elevators (07) and temporary licenses (09), the applicant shall comply with the applicable mechanic licensing requirements as follows:

(i) Test.

(A) The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than three years' work experience in the elevator industry under the general direction of a licensed elevator mechanic performing conveyance work in the same category as verified by current and previous employers licensed to do business in this state or as an employee of a public agency;

Acceptable proof may include department-approved forms documenting years of experience, affidavits, letters from previous employers, declarations of experience, education credits, copies of contractor registration information, etc. Additional documentation may be requested by the department to verify the information provided on the application; and

(B) Pass an examination administered by the department on chapter 70.87 RCW and this chapter with a minimum passing score of eighty percent; or

(ii) National exam/education.

(A) Have obtained a certificate of completion and successfully passed the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program or its equivalent; or

(B) Have obtained a certificate of completion of an apprenticeship program for an elevator mechanic, having standards substantially equal to those of chapter 70.87 RCW and this chapter, and registered with the Washington state apprenticeship and training council under chapter 49.04 RCW; or

(iii) Reciprocity. The applicant shall provide acceptable proof to the department that shows that the applicant is holding a valid license from a state having entered into a reciprocal agreement with the department and having standards substantially equal to those of chapter 70.87 RCW and this chapter.

(b) For conveyance work performed on personnel hoists as identified in WAC 296-96-00910(4):

(i) Test. The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than one year's work experience in the elevator industry or not less than three years (for the purpose of this category one year will be equivalent to seven hundred hours) documented experience and education credits in conveyance work under the general direction of a licensed elevator mechanic as described in category (04) performing conveyance work in

the same category as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW, A10.4 and this chapter with a minimum passing score of eighty percent.

(iii) Reciprocity. The applicant shall provide acceptable proof to the department that shows the applicant is holding a valid license from a state having entered into a reciprocal agreement with the department and having standards substantially equal to those of chapter 70.87 RCW and this chapter.

(c) For conveyance work performed on material lifts as identified in WAC 296-96-00910(5):

(i) Test. The applicant and the licensed elevator contractor/employer shall comply with the provisions of RCW 70.87.-245; and

(ii) The applicant shall pass an examination administered by the department on chapter 70.87 RCW and this chapter with a minimum passing score of eighty percent;

(d) For residential conveyance work covered by category (06) as identified in WAC 296-96-00910:

(i) Test. The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than two years' work experience in the elevator industry performing conveyance work as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW and this chapter with a minimum passing score of eighty percent.

(e) For residential inclined conveyance work covered by category (07) as identified in WAC 296-96-00910;

(i) Test. The applicant shall provide acceptable proof to the department that shows the necessary combination of documented experience and education credits in the applicable license category (see WAC 296-96-00910) of not less than one year's work experience in the elevator industry or not less than three years' documented experience and education credits in conveyance work as described in category (01) performing conveyance work as verified by current and previous employers licensed to do business in this state; and

(ii) Pass an examination administered by the department on chapter 70.87 RCW and this chapter with a minimum passing score of eighty percent.

(f) For temporary mechanic licenses as identified in WAC 296-96-00910 category (09) the applicant shall provide acceptable proof from a licensed elevator contractor that attests that the individual is competent to perform work under chapter 70.87 RCW and this chapter.

(8) Complete and submit a department-approved application.

An applicant who is required to take an examination under the provisions of this section may not perform the duties of a licensed elevator mechanic until the applicant has been notified by the department that he/she has passed the examination.

(9) Pay the fees specified in WAC 296-96-00922.

(10) The department may deny application of a license under this section if the applicant owes outstanding final

judgments to the department or does not meet the minimum criteria established in the elevator laws and rules.

AMENDATORY SECTION (Amending WSR 18-18-068, filed 8/31/18, effective 10/1/18)

WAC 296-96-00910 Elevator mechanic license categories. The following are the licensing categories for qualified elevator mechanics or temporary elevator mechanics:

(1) **Category (01):** A general elevator mechanic license encompasses the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of all types of elevators and other conveyances in any location covered under chapter 70.87 RCW and this chapter.

(2) **Category (02):** This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following commercial and residential conveyances:

(a) Residential conveyances:

- (i) Wheelchair lifts*;
- (ii) Dumbwaiters;
- (iii) Incline chairlifts*;
- (iv) Residential elevators.

*License is not required to remove these.

(b) Commercial conveyances:

- (i) Wheelchair lifts;
- (ii) Dumbwaiters;
- (iii) Incline chairlifts; and
- (iv) LULA elevators.

(3) **Category (03):** This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following conveyances in industrial sites and grain terminals:

- (a) Electric and hand-powered manlifts;
- (b) Special purpose elevators; and
- (c) Belt manlifts.

(4) **Category (04):** This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of the following conveyances:

- (a) Temporary personnel hoists; ~~and~~
- (b) Temporary material hoists(~~and~~
- (c) ~~Special purpose elevators~~)).

(5) **Category (05):** This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of material lifts.

(6) **Category (06):**

(a) This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, and repair of the following conveyances:

- (i) Residential wheelchair lifts;
- (ii) Residential dumbwaiters; and
- (iii) Residential incline chairlifts.

(b) Work experience on conveyances in (a)(i), (ii), and (iii) of this subsection may not be all inclusively applied toward the category (02) license requirements.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements if the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the public. Such exempt work does not count toward work experience for licensure.

(7) **Category (07):** This license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, and repair of residential inclined elevators.

Note: Maintenance work performed by the owner or at the direction of the owner is exempted from licensing requirements if the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the public. Such exempt work does not count toward work experience for licensure.

(8) **Category (08):** This license is limited to maintenance and nonalteration repair and replacement of all conveyances and is further limited to employees of public agencies to obtain and maintain the license. This work should not count towards other licenses.

(9) **Category (09):** A temporary license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of conveyances in the category for which the license is sought. The license shall be issued pursuant to the conditions of RCW 70.87.250.

(10) **Category (10):** An emergency license is limited to the installation, alteration, maintenance, inspection, relocation, decommission, removal, and repair of conveyances by elevator mechanics that are certified by an elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision and is further limited for use during a state of emergency.

AMENDATORY SECTION (Amending WSR 19-24-086, filed 12/3/19, effective 12/3/19)

WAC 296-96-00912 License renewal requirements.

(1) An elevator contractor or elevator mechanic license issued pursuant to this chapter shall be valid for a period of two years and may be renewed by submission of a renewal application to the department, payment of a renewal fee as specified in WAC 296-96-00922 and proof of compliance with the requirements of this chapter.

(a) Elevator contractor licenses expire on the calendar date two years from issuance.

Upon applying for renewal the elevator contractor shall verify the primary point of contact information is correct.

(b) Elevator mechanic licenses expire on the licensee's birth date in the calendar year two years from the year of application. It is noted that the initial license term may be valid for a longer or shorter period of time depending on when the licensee's birthday falls compared to the date on which the initial license was issued.

(i) If a license is issued in an even-numbered year, the license will expire on the license holder's birth date in the next even-numbered year.

(ii) If a license is issued in an odd-numbered year, the license will expire on the license holder's birth date in the next odd-numbered year.

(c) Renewal of an elevator mechanic license shall be conditioned upon completion of not less than eight hours of instruction within one year immediately preceding a license renewal application and submission of a certificate of completion for the course. Continuing education courses and instructors shall be approved by the department.

(2) Temporary elevator mechanics (category (09)). A temporary elevator mechanic license may be renewed at the discretion of the department. Examples include, but are not limited to, abnormally high rate of construction or natural disaster.

(a) The renewal period is one year from the date of issuance.

(b) As part of the renewal process the applicant shall:

(i) Complete and submit a department-approved application.

(ii) Pay the fees specified in WAC 296-96-00922.

(iii) Have seventy-five percent of both education and training hours to obtain a license (see WAC 296-96-00908).

Note: The department may require the applicant demonstrate more than seventy-five percent of education hours if multiple temporary licenses are requested.

(3) The department may deny renewals of licenses under this section if the applicant owes outstanding final judgments to the department. Final judgment also includes any penalties assessed against an individual or firm owed the department because of an unappealed civil penalty or any outstanding fees due under chapter 70.87 RCW and this chapter.

(4) Renewals will be considered timely when the renewal application is received on or prior to the expiration date of the license.

(5) Renewals are considered late if the renewal applications are received after the expiration date of the license but no later than ninety days after the expiration of the licenses. If the application is not received within ninety days from license expiration, the licensee must reapply and pass the competency examination.

(6) A mechanic licensed in the state of Washington may take a withdrawal if they are no longer working for a company licensed in the state or no longer performing work that requires a license. A mechanic holding a valid license that wishes to withdraw their license shall submit their request, in writing, to the department of labor and industries elevator section prior to the license expiration date. To cancel a withdrawal request and be reinstated, the mechanic shall submit their request in writing, reapply, complete the required continuing education, and pay the renewal licensing fee.

AMENDATORY SECTION (Amending WSR 18-18-068, filed 8/31/18, effective 10/1/18)

WAC 296-96-00916 Continuing education course provider requirements. (1) The department approves continuing education course providers.

(2) The department will review and approve courses.

(a) All providers seeking course approval shall submit the required information to the department on a form provided by the department.

(b) The courses shall be taught by instructors through continuing education providers; courses may include, but are not limited to, association seminars and labor training programs.

(c) All instructors shall be approved by the department and are exempt from the requirements of WAC 296-96-00912 (2)(b)(ii) regarding his or her application for license renewal, provided that such applicant was qualified as an

instructor at any time during the one year immediately preceding the scheduled date for such renewal and the instructor shall have taught two or more courses in the year preceding the renewal.

(d) All training courses shall conform to and be based upon current standards and requirements governing the operation, construction, installation, alteration, inspection and repair of elevators and other conveyances.

(e) All course approval requests shall include:

(i) A general description of the course, including its scope, the instructional materials to be used and the instructional methods to be followed;

(ii) A detailed course outline;

(iii) A sample copy of the certificate that will be provided to the attendee. The certificate shall note the name of the course, the number of hours as approved by the department, a course number if one has been assigned by the provider, the date the education was completed and the instructor's signature and the student's signature. The certificate must state that it is not valid without the signatures of the instructor and the student.

(iv) The name and qualifications of the course instructor(s);

(v) The locations where the course will be taught;

(vi) The days and hours the course will be offered; and

(vii) The specific fees associated with the course, as well as, the total cost of the course.

(f) Training courses will be approved for a two-year period.

(g) It is the responsibility of the provider to annually review and update its courses and to notify the department of any changes.

(h) The department may withdraw its approval of any training course if it determines the provider is no longer in compliance with the requirements of this chapter. If the department withdraws its approval of a training course, it will give the provider written notification of the withdrawal, specifying the reasons for its decision.

(i) Approved training providers shall keep uniform records, for a period of ten years, of attendance of licensees and these records shall be available for inspection by the department at its request. The provider shall submit a list of names of the attendees to the department on or before thirty days after the date of the course being held. Approved training providers are responsible for the security of all attendance records and certificates of completion. Falsifying or knowingly allowing another to falsify attendance records or certificates of completion constitutes grounds for suspension or revocation of the approval required under this section.

AMENDATORY SECTION (Amending WSR 19-24-086, filed 12/3/19, effective 12/3/19)

WAC 296-96-00922 Licensing fees. The following are the department's elevator license fees:

Type of Fee	Period Covered by Fee	Dollar Amount of Fee
Elevator contractor/mechanic application fee (not required for renewal of valid license)	Per application	\$((66.80)) <u>70.10</u>
Elevator contractor/mechanic examination fee	Per application	\$((201.30)) <u>211.50***</u>
Reciprocity application fee	Per application*	\$((66.80)) <u>70.10</u>
Elevator mechanic license	2 years	\$((134.10)) <u>140.90</u>
Elevator contractor license	2 years	\$((134.10)) <u>140.90</u>
Temporary elevator mechanic license application fee (not required for renewal)	Per application	\$((66.80)) <u>70.10</u>
Temporary elevator mechanic license	1 year	\$((134.10)) <u>140.90</u>
Emergency elevator mechanic license	30 days	\$((33.20)) <u>34.80</u>
Elevator mechanic/contractor timely renewal fee	2 years	\$((134.10)) <u>140.90</u>
Elevator mechanic/contractor late renewal fee	2 years	\$((268.60)) <u>282.20</u>
Temporary elevator mechanic timely renewal fee	1 year	\$((134.10)) <u>140.90</u>
Temporary elevator mechanic late renewal fee	1 year	\$((268.60)) <u>282.20</u>
Training provider application/renewal fee	2 years	\$((134.10)) <u>140.90</u>
Continuing education course fee by approved training provider	1 year**	Not applicable
Replacement of any licenses		\$((19.90)) <u>20.90</u>
Refund processing fee		\$((40.00)) <u>42.00</u>

* Reciprocity application is only allowed for applicants who are applying for licensing based upon possession of a valid license that was obtained in state(s) with which the department has a reciprocity.

** This fee is paid directly to the continuing education training course provider approved by the department.
***This fee may be collected by an outside vendor for some exams and may differ from the fee shown above.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01005 Obtaining permits. (1) See WAC 296-96-01000 for the permit process.

(2) Construction and alteration permits are valid for one year from the date of issue. However, permits may be renewed if:

- (a) Application for a renewal permit is submitted before the current permit expires;
(b) The department approves the request for a renewal permit; and
(c) A renewal fee of \$((60.60)) 63.60 is paid to the department for each permit renewed;
(3) If the permit has expired the applicant shall reapply for a new permit.
(4) See WAC 296-96-01006 for work requiring a permit.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01010 Installation and alteration permit fees. Permit fees are based on the total cost of the conveyance or alteration and the labor to install or alter the conveyance. The following permit fees apply to the construction, alteration, or relocation of all conveyances except personnel and material hoists (see WAC 296-96-01025):

Table with 2 columns: TOTAL COST OF INSTALLATION OR ALTERATION and FEE. Rows include fee ranges from \$0 to over \$15,000 for installation and alteration, with specific fee amounts like 70.10, 105.40, 176.10, 211.50, 282.20, and 395.10 plus.

*Each additional \$1,000 or fraction thereof \$((9.20)) 9.60

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01025 Permit fees for personnel and material hoists. The fee for each personnel hoist or material hoist installation is \$((268.60)) 282.20.

See WAC 296-96-01035(2) for requirements for jumps.

Note: An operating certificate is also required for these types of conveyances.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01027 Permit fee refunds. The initial installation permit fees are refundable minus a processing fee if the installation work has not been performed. No refunds will be issued for expired permits. All requests for refunds shall be submitted in writing to the elevator section and shall identify the specific permits and the reasons for which the refunds are requested.

The processing fee for each refund is \$((40.00)) 42.00.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01030 Plan approval. Prior to the start of construction and the issuance of a permit, the applicant shall submit to the department for approval a permit application and plans for new installations or major alterations. To be approved, the plan shall comply with the latest adopted applicable standard and applicable Washington Administrative Code (WAC). In addition, the plans shall include all information necessary to determine whether each installation/alteration complies with all applicable codes. The permit holder shall keep a copy of the approved plan on the job site until the department has witnessed all acceptance tests. Any alterations to the approved plan shall be submitted to the department for approval before a final inspection will be conducted. The nonrefundable fees for ((reviewing the plans)) processing the applications are \$((33.20)) 34.80 for each installation/major alteration.

Exception: Residential incline chair lifts will not require plan review. Equipment shall be listed and labeled by a product testing laboratory which is accredited by the department and plans supplied by the manufacturer shall be on-site. If the equipment is not listed and labeled as per RCW 19.28.010 it shall be field evaluated or replaced with equipment that is listed and labeled by a product testing laboratory which is accredited by the department. The department may request additional information as deemed necessary to determine if lifts comply with current codes and testing standards. Governor overspeed safety testing shall be verified by manufacturer's documentation (see A18.1 Requirement 9.9.3). The test results certified by a nationally recognized testing laboratory (NRTL). Certification shall be provided at time of application.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01035 Inspection fees. The initial inspection of construction, alteration or relocation of a conveyance is included with the permit fee. Once the department has approved the initial installation of the conveyance, a temporary 30-day operating certificate will be issued. Prior to the expiration of the 30-day temporary operating certificate, the application for an annual operating certificate and the appropriate fees shall be paid to the department. Once the department has received the appropriate fees and application the owner will be issued the first annual operating certificate. The owner or owner's representative will receive an invoice

from the department for renewal. The owner is required to renew the annual operating certificate yearly.

The following inspections require an additional inspection fee:

(1) **Reinspection.** If a conveyance does not pass an initial inspection and an additional inspection is required, the fee for each reinspection of a conveyance is ~~\$(134.10)~~ 140.90 per conveyance plus ~~\$(65.40)~~ 68.40 per hour for each hour in addition to the first hour.

The department may waive reinspection fees.

(2) **Inspecting increases in the height (jumping) of personnel and material hoists.**

The fee for inspecting an increase in the height (jumping) of each personnel hoist or material hoist is ~~\$(134.10)~~ 140.90 plus ~~\$(66.80)~~ 70.10 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

The permit holder may be allowed to operate a hoist prior to the jump inspection if:

(a) The electrical limits will not allow the lift to operate above the previously inspected landing; and

(b) The state elevator inspector is contacted, agrees and can schedule an inspection within 3 days.

(3) **Variance inspections.**

(a) The fee for an on-site variance inspection is ~~\$(201.30)~~ 211.50 per conveyance plus ~~\$(66.80)~~ 70.10 per hour for each hour in addition to 2 hours. This fee is for inspections occurring during regular working hours.

(b) The fee for a variance that does not require an on-site inspection is ~~\$(66.80)~~ 70.10 per conveyance. The individual requesting the variance shall provide the department with pictures, documentation, or other information necessary for the department to review the variance. The department may conduct an on-site variance inspection to verify the information provided or if it determines that an inspection is necessary. If an on-site variance inspection is performed, the fees in (a) of this subsection will apply.

(4) **"Red tag" status fee.** The annual fee for a conveyance in "Red tag" status is ~~\$(33.20)~~ 34.80.

Note: The department shall be provided with written approval from the building official, indicating that the conveyance is not required for building occupancy, when applying to have the conveyance placed in voluntary red tag status.

(5) **Decommission inspection.** The fee for performing a decommission inspection is ~~\$(66.80)~~ 70.10. Once the decommission inspection has been performed and approved, the conveyance will no longer require annual inspections until such time that the conveyance is brought back into service. Prior to operating the conveyance, a new inspection and annual operating permit shall be obtained.

(6) **Voluntary inspections by request.** The owner or potential purchaser of a building within the department's jurisdiction may request a voluntary inspection of a conveyance. The fee for this inspection will be ~~\$(134.10)~~ 140.90 per conveyance and ~~\$(66.80)~~ 70.10 per hour for each hour in addition to 2 hours plus the standard per diem and mileage allowance granted to department inspectors. The owner/potential purchaser requesting the voluntary inspection will not be subject to any penalties based on the inspector's findings.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01040 Construction-use inspection fee.

(1) The fee for the inspecting and testing of elevators used for construction is ~~\$(107.20)~~ 112.60, in addition to any other fees required in this chapter. This fee purchases a 30-day temporary use permit that may be renewed at the department's discretion.

(2) When this temporary use permit is purchased, a notice declaring that the equipment has not received final approval from the department shall be conspicuously posted in the elevator.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01045 Residential elevator inspection and fees.

(1) Chapter 70.87 RCW requires the department to inspect all new, altered or relocated conveyances operated exclusively for single-family use in private residences. Prior to installation, a licensed elevator contractor shall complete a permit application as described in WAC 296-96-01005 and pay the appropriate fee listed in WAC 296-96-01010.

(2) Chapter 70.87 RCW allows the department to inspect conveyances operated exclusively for single-family use in private residences when the department is investigating an accident or an alleged or apparent violation of the statute or these rules.

(3) No annual inspection and operating certificate is required for a private residence conveyance operated exclusively for single-family use unless the owner requests it. When an owner requests an inspection and an annual operating certificate, the following fee shall be paid prior to an inspection:

TYPE OF CONVEYANCE	FEE
Each inclined stairway chair lift in private residence	\$(31.20) <u>32.70</u>
Each inclined wheel chair lift in a private residence	\$(31.20) <u>32.70</u>
Each vertical wheel chair lift in a private residence	\$(39.30) <u>41.30</u>
Each dumbwaiter in a private residence	\$(31.20) <u>32.70</u>
Each inclined elevator at a private residence	\$(411.50) <u>117.10</u>
Each private residence elevator	\$(71.80) <u>75.40</u>
Duplication of a lost, damaged or stolen operating permit	\$(13.10) <u>13.70</u>

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01055 Technical services and consultations. A person, firm, corporation, or governmental agency may request elevator field technical services from the depart-

ment by paying a fee of ~~\$(80.30)~~ 84.30 per hour or any portion thereof (including travel time) plus the standard per diem and mileage allowance granted to department inspectors. These field technical services may include code evaluation, code consultation, plan examination, code interpretation, and clarification of technical data relating to the application of the department's conveyance rules. Field technical services do not include inspections.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01057 Accident investigations. The department shall investigate an injury-related accident reported by the owner or owner's duly authorized agent. The department may charge at a rate of ~~\$(80.30)~~ 84.30 per hour or portion thereof (including travel time) plus the standard per diem and mileage allowance granted to department inspectors.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01060 Inspections after normal business hours. An inspection outside of normal business hours and business days (i.e., Monday through Friday excluding holidays; 7:00 a.m. to 5:00 p.m.) may be requested under the following conditions:

- (1) An inspector is available; and
- (2) The inspection is authorized by the department.
- (3) The minimum fee for an after-hours inspection is ~~\$(100.30)~~ 105.40 and ~~\$(100.30)~~ 105.40 per hour for each hour in addition to the first hour plus the standard per diem and mileage allowance granted to department inspectors.
- (4) This fee is in addition to any other fees required for the project.

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-96-01065 Annual operating permit fees. An annual operating certificate will be issued to the building owner upon payment of the appropriate fee. The owner of record shall be invoiced by the department. If a change of ownership has occurred, it is the new owner's responsibility to ensure the department has the corrected information. Below is the fee structure table:

TYPE OF CONVEYANCE	FEE
Each hydraulic elevator	\$(134.10) <u>140.90</u>
Each roped-hydraulic elevator	\$(167.60) <u>176.10</u>
plus for each hoistway opening in excess of two	\$(13.10) <u>13.70</u>
Each cable elevator	\$(167.60) <u>176.10</u>
plus for each hoistway opening in excess of two	\$(13.10) <u>13.70</u>

TYPE OF CONVEYANCE	FEE
Each cable elevator traveling more than 25 feet without an opening—for each 25 foot traveled	\$(13.10) <u>13.70</u>
Each limited-use/limited-application (—LULA) elevator	\$(134.10) <u>140.90</u>
Each escalator	\$(111.40) <u>117.00</u>
Each dumbwaiter in other than a private residence	\$(71.80) <u>75.40</u>
Each material lift	\$(134.10) <u>140.90</u>
Each incline elevator in other than a private residence	\$(144.20) <u>151.50</u>
Each belt manlift	\$(134.10) <u>140.90</u>
Each stair lift in other than a private residence	\$(71.80) <u>75.40</u>
Each wheel chair lift in other than a private residence	\$(71.80) <u>75.40</u>
Each personnel hoist	\$(134.10) <u>140.90</u>
Each grain elevator personnel lift	\$(111.40) <u>117.00</u>
Each material hoist	\$(134.10) <u>140.90</u>
Each special purpose elevator	\$(134.10) <u>140.90</u>
Each private residence elevator installed in other than a private residence	\$(134.10) <u>140.90</u>
Each casket lift	\$(111.40) <u>117.00</u>
Each sidewalk freight elevator	\$(111.40) <u>117.00</u>
Each hand-powered manlift or freight elevator	\$(75.50) <u>79.30</u>
Each boat launching elevator	\$(111.40) <u>117.00</u>
Each auto parking elevator	\$(111.40) <u>117.00</u>
Each moving walk	\$(111.40) <u>117.00</u>
Duplication of a damaged, lost or stolen operating permit	\$(13.10) <u>13.70</u>

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02410 Alterations. (1) Where there is an associated seismic or ADA requirement to the equipment or

system being altered, the equipment shall also be brought into compliance with the applicable seismic and/or ADA requirements during the alteration.

(2) Machine room, control room, machinery space, and control space illumination shall be required to meet the minimum illumination levels as required by the latest adopted code.

(3) Where a new jack assembly or hydraulic pump unit is installed, a seismic (overspeed) valve shall be installed according to ASME A17.1/CSA B44, Section 8.4.11.

(4) When new elevator equipment is installed in a machine or control room, receptacles shall comply with current adopted edition of NFPA 70 (see Art. 620.23).

(5) When new equipment is installed in the elevator pit, illumination levels shall be required to meet the minimum illumination levels required by the current adopted edition of ASME A17.1/CSA B44. Receptacles in the pit area shall be of the GFCI type (see NFPA 70, Art. 620.24).

(6) Where the main line disconnect is being replaced or relocated, and the machine room or hoistway is sprinklered, or in the process of being sprinklered, a shunt-trip device shall be installed.

Section 4

Machine Space in Hoistways

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02452 Access to machines, overhead sheaves, shackles, and hitch supports. When the machine space is provided inside the hoistway, maintainable items on the machine, overhead sheaves, shackles, and hitch supports shall not be located more than ~~((six feet six inches))~~ 78 in. from the horizontal plane of the car top.

Section ((4)) 5

Main Line Disconnects and Shunt-Trip Breakers

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02460 Location. (1) The main line disconnect(s) shall be located per NFPA 70, Article 620.51(c) and:

(a) Inside the machine room door on the strike side of the machine or control room door;

(b) Not more than ~~((twenty four inches))~~ 24 in. from the door to the operating handle; and

(c) Be at a height not less than ~~((thirty six inches))~~ 36 in. nor more than ~~((sixty six inches))~~ 66 in. above the finish floor as measured centerline to the disconnect handle.

(2) For multicar machine rooms the switches shall be grouped together as close as possible to that location.

(3) For machine rooms with double swing doors, the doors shall swing out and the switch(es) shall be located on the wall adjacent to the hinge side of the active door panel.

(4) Shunt-trip breakers, where provided, shall be located in the elevator machine room or control room.

(5) Where shunt-trip breakers are also being used as a main line disconnect, they shall comply with subsections (1) through (3) of this section.

EXCEPTION: Special purpose, residential elevators, and residential inclined elevators are exempt from this section. For LULAs, the main disconnect and car light disconnect shall be located adjacent to the controller when not located in a dedicated machine room. When a machine room is provided it shall comply with this section.

Section ((5)) 6

Additional Machine/Control Room Requirements

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02465 Machine rooms, control rooms, and control spaces. (1) The lighting control switch shall be located inside the machine room or control room within ~~((twenty four inches))~~ 24 in. of the lock jamb side of the access door.

For machine rooms and control rooms with double swing doors, the doors shall swing out and the switch(es) shall be located on the wall adjacent to the hinge side of the active door panel.

(2) Elevator machine room, control room, and control space access doors shall be provided with a sign that reads "Elevator Equipment Room/Authorized Personnel Only! Storage of equipment not pertaining to the elevator is prohibited." The sign shall be located approximately 60 in. above floor level. Lettering shall not be less than 0.375 in. in height and shall contrast with the background. Where double doors are provided, the sign is only required to be provided on the active door panel.

EXCEPTION: Residential conveyances, LULAs and special purpose elevators are exempted from these requirements.

(3) The temperature and humidity shall comply with ASME A17.1/CSA B44. Where no manufacturer's temperature range is available, the room or space shall be kept between 13°C (55°F) and 38°C (100°F).

Section 7

Fire Service, Sprinklers, Sprinkler Pipes, Shunt Trip

~~((Car(s)))~~Section ~~((6))~~ 8

Correction Facility Elevators

Section 9

Additional Requirements

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02530 Handrails. Handrails are not required. Where handrails are provided in elevator cars, ~~((their configuration))~~ they shall comply with ~~((ADAAG or ICC A117.1))~~ the following:

- (1) Be securely attached to the wall;
- (2) Be located at a height between 32 in. and 38 in. from the top of the handrail to the floor; and
- (3) Be constructed with smooth surfaces and no sharp corners; and
- (4) Be configured with a gripping surface as required by ANSI/ICC A117.1 for handrails.

~~((Note))~~ Residential conveyances are excluded from this requirement.
Exception:

Section 10

Hoistway and Pit

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02552 Location of equipment in hoistway. Elevator equipment shall be permitted to be located within the hoistway subject to the requirements in ASME A17.1/CSA B44 and the following:

(1) Where an elevator cannot be prevented from movement electrically and mechanically prior to entering the ~~((hoistway or))~~ pit area ~~((, the following restrictions shall apply:~~

~~((a))~~ motor controllers, motion controllers, drives, hydraulic control valves, hydraulic reservoirs (tank), ~~((and))~~ hydraulic pump motors, and driving machines shall not be located in the ~~((hoistway or))~~ pit.

~~((b))~~ Driving machines shall not be located in the pit.)

(2) ~~((The ability to activate the))~~ Where a means is used to secure the elevator electrically and mechanically prior to entering the pit, the means shall be designed such that the activation can be performed without full bodily entry into the ~~((hoistway or))~~ pit.

~~((3))~~ Elevator controls and machinery other than driving machines, hydraulic cylinder, piston, governor, and their components shall be located in a room dedicated exclusively to elevator equipment.

~~((4))~~ Drive sheaves, deflector sheaves, machine parts and supports are permitted to project into the hoistway.)

Section 11

Outside Hoistway

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02580 Inspection keys ~~((required on-site))~~. ~~((The keys for Group 2 Authorized Personnel (see ASME A17.1/CSA B44 8.1.3) shall be located in a locked key retainer box in the elevator lobby at the designated level above the hall buttons, or located by machine room doors at no more than six feet above the floor, provided access to the key box doesn't require passage through locked doors. If in order to meet this requirement the box would be located in an unsecured location (such as the outside portion of a condo); other arrangements shall be accommodated with the written permission of the department.~~

The key retainer box shall be:

- Readily accessible to authorized personnel;
- Clearly labeled "ELEVATOR";
- Securely mounted;
- Equipped with a 1-inch mortise cylinder cam lock with keyway set to a #39504 Fort type key;

Further:

• Keys for access to elevator machine rooms and for operating elevator equipment shall be tagged and kept in the key box.

• The box shall contain all keys associated with the Group 2 Security and applicable to the elevator(s) (see ASME A17.1/CSA B44, Req. 8.1.3).

• Mechanical hoistway access devices shall be located in the key box or machine room.) (1) All keys necessary for the operation and maintenance of the elevator(s) shall be provided and kept on-site in a key retainer box.

(2) The key retainer box shall be:

(a) Located in the elevator lobby at the designated level above the hall buttons or located by the machine room door at a height not more than 72 in. above the floor. Access to the key box shall not require passage through locked doors;

(b) Readily accessible to inspection personnel;

(c) Clearly labeled "ELEVATOR;"

(d) Securely mounted;

(e) Equipped with a 1-inch mortise cylinder cam lock with keyway set to a #39504 barrel type key;

(f) Keys for access to the elevator machine rooms and for operating elevator equipment shall be labeled as to their function and kept in the key box;

(g) Mechanical hoistway access devices shall be located in the key box. Where the key cannot fit into the key box, it may be located in the machine/control room;

(h) Where the box cannot be located as indicated in (a) of this subsection, it shall be permitted to be in an unsecured location (such as the outside portion of a condominium). Other arrangements shall be accommodated with the written permission of the department;

(i) No persons except the building owner and inspectors shall have access to the key box; and

(j) All other keys kept elsewhere on-site shall be segregated into groups and secured as required by ASME A17.1/CSA B44, Section 8.1.

~~((Note))~~ The cities of Seattle and Spokane may designate their own options for keys and lockbox arrangement via their rule processes.

~~Residential elevators are exempt from this section.~~

~~((EXCEPTION: Residential elevators are exempt from this section.))~~

Section 12

Accessibility Equipment

~~((Accessibility Equipment))~~

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02605 Private residence inclined stairway chairlifts. (1) Battery operated private residence inclined stairway chairlifts are not required to be permanently wired or installed on an individual branch circuit as required by ~~((NEC))~~ NFPA 70 620.51 (A) Exception 2. These conveyances shall be permitted to use a cord and plug that will act as the equipment disconnecting means. The circuit, which is used for the equipment, shall have overcurrent protection that will protect the circuit and the equipment. The circuit shall have sufficient capacity to support the additional load of the stairway chairlift. Units that are operated by line voltage shall comply with NEC 620.51 (A) Exception 2.

~~(2) ((A free passage width of not less than seventeen inches shall be provided. If the chair can be folded when not in use the distance can be measured from the folded chair. When in use there must be a minimum of two inches between any body part and the nearest obstruction.))~~ Governor overspeed safety testing shall be verified by manufacturer's documentation (see A18.1 Requirement 9.9.3). Safeties shall be manually tripped at rated speed with no load on the chair (see A18.1 Section 10.4).

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-02640 ~~((Incline))~~ Inclined commercial stairway chair lifts. Governor overspeed safety testing shall be verified by ~~((manufacturer))~~ manufacturer's submitted documentation ~~((and manually tripped at rated speed with no load))~~ at time of permit (see A18.1 Requirement 9.9.3). Safeties shall be manually tripped at rated speed with no load on the chair (see A18.1 Section 10.4).

NEW SECTION

WAC 296-96-02650 Additional required on-site documentation. (1) Wiring diagrams.

(2) A log identifying applicable tests.

(3) Manufacturer's operational instructions that include the operation of the manual lowering device.

(4) Maintenance logs shall include the following tasks:

(a) Stair chair lifts:

(i) Platform lifts:

(A) Operating control devices;
(B) Seat, arm rests, and foot rest;
(C) Rated load and data plate; and
(D) Ride.

(ii) Machine:

(A) Enclosure;
(B) Drive machine brake;
(C) Suspension means;
(D) Disconnecting means;
(E) Numbering of equipment;
(F) Gears and bearings;
(G) Winding drum;
(H) Suspension fastenings;
(I) Slack-rope devices; and
(J) Overspeed governor.

(iii) Runway:

(A) Normal terminal stopping devices;
(B) Final terminal stopping devices;
(C) Head room;
(D) Guiding members;
(E) Construction;
(F) Clearances;
(G) Traveling cables and junction boxes;
(H) Guide rail fastenings and equipment; and
(I) Equipment exposure to weather.

(b) Inclined platform lifts:

(i) Platform:

(A) Stop switch;
(B) Operating control devices;
(C) Floor;
(D) Lighting;
(E) Emergency signal;
(F) Signs and operating device symbols;
(G) Rated load and data plates;
(H) Ride; and
(I) Arms and retractable ramps.

(ii) Machine:

(A) Enclosure;
(B) Guarding of exposed auxiliary equipment;
(C) Drive machine brake;
(D) Gears and bearings;
(E) Winding drum;
(F) Belt or chain drive;
(G) Secondary and deflector sheaves;
(H) Suspension fastenings;
(I) Slack-rope devices;
(J) Safety device;
(K) Overspeed governor;
(L) Disconnecting means;
(M) Numbering of equipment; and
(N) Controller.

(iii) Runway:

(A) Normal terminal stopping devices;
(B) Final terminal stopping devices;
(C) Head room;
(D) Slack rope devices;
(E) Safeties and guiding members;

- (F) Construction;
- (G) Clearances;
- (H) Guide rail fastenings and equipment;
- (I) Suspension means; and
- (J) Equipment exposure to weather.
- (c) Vertical platform lifts:
 - (i) Platform:
 - (A) Stop switch;
 - (B) Operating control devices;
 - (C) Lighting and auxiliary lighting;
 - (D) Emergency signaling device;
 - (E) Gates and retractable ramps;
 - (F) Enclosure;
 - (G) Signs and operating device symbols;
 - (H) Rated load and data plate; and
 - (I) Ride.
 - (ii) Machine:
 - (A) Enclosure;
 - (B) Drive machine brake;
 - (C) Gears and bearings;
 - (D) Winding drum;
 - (E) Belt or chain drive machine;
 - (F) Secondary or deflector sheaves;
 - (G) Suspension fastenings;
 - (H) Slack rope device;
 - (I) Overspeed governors;
 - (J) Hydraulic power unit;
 - (K) Control valves; and
 - (L) Hydraulic cylinders and supply piping.
 - (iii) Runways:
 - (A) Normal terminal stopping device;
 - (B) Final terminal stopping device;
 - (C) Head room;
 - (D) Slack rope device;
 - (E) Safeties and guiding members;
 - (F) Construction;
 - (G) Clearances;
 - (H) Traveling cables;
 - (I) Door and gate equipment;
 - (J) Suspension fastenings;
 - (K) Suspension means; and
 - (L) Equipment exposure to weather.
 - (iv) Outside runway:
 - (A) Doors and gates;
 - (B) Door locking devices; and
 - (C) Enclosure.

Section 13

Private Residence Elevators

NEW SECTION

WAC 296-96-02700 Machine room requirements. (1) Main line disconnects and car light disconnects shall be located adjacent to the controller when not located in a dedicated machine room. When located in a dedicated room, commercial machine room requirements shall be followed. Main line disconnects shall comply with WAC 296-96-02460.

- (2) Access to the motor brake shall have:
 - (a) A lockable door that is a minimum of 6" x 6" or 36 sq. in.
 - (b) A "STOP" switch shall be located within reach of the access door.
 - (c) A light switch and GFCI receptacle shall be located within reach of the access door.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05000 Scope. The requirements in this part are intended to cover those stand-alone standard application (~~((vertical))~~) material lifts. Where Type-A or Type-B material lifts are installed, they shall comply with ASME A17.1/CSA B44, Part 7.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05020 Hoistway enclosure. Generally, local codes and ordinances govern hoistway enclosure construction. When not in conflict with a local code requirement, the enclosure shall:

- (1) Be built to a height of (~~((7-feet))~~) 84 in. above each floor, landing and adjacent stairway tread;
- (2) Extend (adjacent to the counterweights) the full height of the floor and 8 (~~((inches))~~) in. beyond the counterweight raceway;
- (3) Be constructed of either solid material or material with openings that will reject a (~~((2-inch))~~) 2 in. diameter ball;
- (4) Be supported and braced so that it does not deflect more than 1 inch when subjected to a force of 100 lbs. applied perpendicular at any point;
- (5) A full height hoistway enclosure is required only on the side(s) of the material lift for which the car is not equipped with a gate or enclosure.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05030 Hoistway gates and doors. Enclosure gates (doors) shall be constructed according to the following standards:

- (1) The gate shall guard the full width of each opening on every landing.
- (2) It shall be built in one of the following styles:
 - (a) Vertically sliding;
 - (b) Biparting;
 - (c) Counter-balanced;
 - (d) Horizontally swinging; or
 - (e) Horizontally sliding.
- (3) Be constructed of either solid material or material with openings that will reject a (~~((2-inch))~~) 2 in. diameter ball.
- (4) Be constructed with a distance of not more than (~~((2 1/2 inches))~~) 2.5 in. between a hoistway gate or hoistway door face and a landing sill edge.
- (5) Be designed and guided to withstand (without being broken, permanently deformed, or displaced from its guides or tracks) a 100 pound lateral pressure applied near its center.

(6) Be equipped with labeled and listed electrical interlock(s) that prevents the operation of the lift when the doors or gates are open.

(7) Be constructed with balanced type vertically sliding gates that extend no more than 2 (~~(inches)~~) in. vertically from the landing threshold and no less than 66 (~~(inches)~~) in. above it.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05070 Car enclosures. (1) Lift cars shall have their sides enclosed with solid panels or openwork that will reject a two-inch diameter ball. On the car sides where there is no gate (door), the enclosure shall extend to a height of at least (~~(forty-eight inches)~~) 48 in. from the floor or to a height necessary to enclose the materials that are being moved, whichever is greater. On the car side next to the counterweight runway, the enclosure shall extend vertically to the car top or underside of the car crosshead and horizontally to at least (~~(six inches)~~) 6 in. on each side of the runway.

(2) Standard application material lifts in unenclosed hoistways shall have a car gate that is constructed of the same material as the car enclosure.

(3) The gate, if required or supplied, shall be the same height as the sidewalls of the car enclosure and shall be provided with a latching device and electrical contact to prevent the operation of the motor and brake if open more than two inches.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05090 Car and counterweight guides. Car and counterweight guide rails shall be fastened so they will not deflect more than (~~(+8)~~) 0.125 in. They shall also be strong enough to withstand, without deformation, the application of a car safety when the car is carrying its rated load and traveling at its rated speed.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05140 Car safeties. Car safeties shall be used on all material lifts that are suspended by wire ropes or chains. They shall be able to stop and sustain a car carrying (~~(+25)~~) 100 percent of its rated load. This shall be demonstrated during the acceptance inspection and test procedure with an overspeed or gravity drop test, minimum two safeties at a time. On lifts driven by rack and pinion machines:

(1) Car safeties shall be able to stop and sustain a car carrying (~~(+25)~~) 100 percent of its rated load.

(2) Car safeties will consist of a freely rotating safety pinion, an overspeed governor, and a safety device which may be mounted on the car.

(3) The rotating pinion driving an overspeed governor will travel on a stationary rack, which is vertically mounted in the hoistway.

(4) The governor will actuate the safety device when the downward speed of the car reaches the tripping speed and will bring the car to a gradual stop.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05190 Pits. The following requirements shall apply to lift pits (~~(shall)~~):

- (1) Have noncombustible floors;
- (2) Be designed to prevent the entry of groundwater into the pit;
- (3) Have floors that are substantially level;
- (4) (~~(Have)~~) Where provided, drains (~~(that are)~~) shall not be directly connected to sewers;
- (5) Provide safe and convenient access to the pit;
- (6) (~~(Provide)~~) Have an approved access ladder for pits deeper than (~~(3 feet)~~) 36 in.; and
- (7) Have nonperforated metal guards installed on the open sides of the counterweights where spring, solid or oil type buffers are attached. These guards shall:
 - (a) Extend from a point not more than 12 (~~(inches)~~) in. above the pit floor to a point at least (~~(7 feet)~~) 84 in. but not more than (~~(8 feet)~~) 96 in. above the floor;
 - (b) Be fastened to a properly reinforced and braced metal frame which will be at least equal in strength and stiffness to No. 14 U.S. gauge sheet steel; and
 - (c) Be omitted on the pit side where compensating chains or ropes are attached to the counterweight.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-05210 Signage. Each lift shall have the following two signs:

(1) A "CAPACITY" sign permanently fastened in the lift car and on each landing. This sign shall indicate the rated load of the lift in pounds and be made of metal with (~~(2-inch)~~) 2 in. high black letters on a yellow background.

(2) A "NO RIDERS" sign conspicuously and permanently fastened on the landing side of all hoistway gates (doors) and in the enclosure of each car. This sign shall be made of metal with (~~(2-inch)~~) 2 in. high black letters on a red background.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-07150 Guide rails, track supports and fastenings. (1) Guides, guide rails, guide rail brackets, and their fastenings and supports shall, at the point of support, deflect (~~(+8 inch)~~) 0.125 in. or less while resisting horizontal forces encountered during loading. When horizontal force is measured at a mid-point between brackets, guide rails shall deflect (~~(+4 inch)~~) 0.25 in. or less in any direction.

(2) Fixed, suspended cable guides may be used as a guide member(s). When used, the deflection is to be specified by the manufacturer and approved by a structural engineer licensed in the state of Washington.

(~~(Special Purpose Personnel Elevators)~~)

Electric Manlifts

NOTE: New installations shall comply with ASME A17.1/CSA B44, Section 5.7.

Hand Powered Elevators

NOTE: New installations shall comply with ASME A17.1/CSA B44, Section 4.3.

Casket Lifts

NOTE: These conveyances are intended to be used only in mortuaries where moving caskets is necessary. The installation of new lifts for this purpose shall comply with ASME A17.1/CSA B44, Part 7 or chapter 296-96 WAC Part C, Section 1.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-18020 Car and platform enclosures. All boat launching elevator cars or platforms shall be enclosed to a height of at least ~~((6-feet))~~ 72 in. from the floor on all sides where there are no hoistway doors or gates. Enclosures may be built as solid panels or open work which will reject a 2 in. diameter ball.

PART D - REGULATIONS FOR EXISTING ELEVATORS, STANDARD APPLICATION MATERIAL LIFTS, DUMBWAITERS, AND ESCALATORS

NOTE: This part provides the minimum requirements for existing conveyances. Application of Part D rules apply where a conveyance was not provided, or required to be provided, with a device or system when originally installed or altered. Where Part D does not cover a particular device or system, refer to ASME A17.3.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23117 Car top guard railings (~~for traction elevators~~). A standard railing shall be installed on the top of all ~~((traction elevators where the perpendicular distance between the edges of the car top and the adjacent hoistway enclosure exceeds 12 in. horizontal clearance. The railing shall be substantially constructed of metal and shall consist of a top rail, intermediate rail and post. The top rail shall have a smooth surface and the upper surface shall be located at a vertical height of 42 in. The intermediate rail shall be located approximately halfway between the top rail and the car top. There shall be a minimum of 6 in. of clearance above the top rail when the car is at its furthest point of travel. If the vertical clearance from the car top to the hoistway enclosure, including gravity stopping distance, is less than 48 in. away, the top handrail height may be reduced to 42 in. plus or minus 3 in. If the clearances will not allow a 39 in. handrail, do not install the top of car railing, instead provide signage required by WAC 296-96-23119))~~ elevators in compliance with ASME A17.1/CSA B44, 2.14.1.7. Where existing conditions do not permit the railing to be installed according to clearances of 2.14.1.7.2, the following shall apply:

(1) The top railing shall be installed at a height of not less than 1070 mm (42 in.) nor more than 1100 mm (43 in.) from the car top.

(2) Where overhead conditions prevent the top railing from being located between 1070 mm (42 in.) and 1100 mm (43 in.), the railing shall be permitted to be lowered to a

height that will still provide the minimum 100 mm (4 in.) vertical clearance to the nearest overhead object. In such cases the top railing shall be provided with red and white stripes 50 mm (2 in.) in width.

(3) The stripes are only required on the side(s) where the top rail is below 900 mm (35 in.).

(4) Where required, the stripes shall extend the entire length of the top rail.

(5) Where overhead conditions prevent the railing from complying with the vertical height and/or the clearances in 2.14.1.7.2(a) or (b), provide signage as required by WAC 296-96-23119(2).

(6) Toeboards are not required.

((EXEMPTION:)) This requirement does not apply to electric manlifts or Exception: residential elevators.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23119 Low overhead signs. (1) Elevators that do not have a minimum of 24 in. clearance from the crosshead, or any equipment mounted on the crosshead, to the lowest member of the overhead structure in the hoistway when the car has reached its maximum upward movement shall be provided with caution signage. A sign shall be located near the top of car inspection station. An additional sign shall be posted on the hoistway wall. This sign shall be visible when accessing the car top. The sign shall consist of alternating 4 in. diagonal red and white stripes and shall clearly state "danger low clearance" in lettering not less than 4 in. in height.

(2) Where required by WAC 296-96-23117(5), a sign shall be provided that reads "Caution: Low Clearances Above Guardrail."

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23126 Guarding of equipment. (1) Where feasible, gears, sprockets, sheaves, cables, tapes, belts and chains shall be fitted with suitable guards to prevent accidental contact.

(2) Openings in machine room floors above the hoistway must be guarded to prevent tools and materials from falling into the hoistway below.

(3) Open grating in machine room floors shall reject a ball ~~((1/2))~~ 0.5 in. in diameter.

(4) Ventilation grids where exposed to the hoistway below shall be firmly fastened to prevent accidental removal and shall be fitted with ~~((1/2))~~ 0.5 in. wire mesh ~~((under))~~ securely attached to the grid.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23130 Pit access. Access ladders shall be installed in elevator pits ~~((3-ft.))~~ 36 in. or deeper. Where constraints prohibit the installation of a pit ladder conforming to ASME A17.1/CSA B44, 2.2.4.2, a retractable ladder shall be permitted to be installed in accordance with 2.2.4.2.7 and 2.2.4.2.8 of ASME A17.1/CSA B44.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23132 Pit illumination and receptacles.

- (1) Light fixtures shall be installed in all pits.
 - (a) Installations prior to 7/1/2004 require a permanent lighting fixture producing at least 5 foot-candles as measured in the working areas at the pit floor.
 - (b) A light switch shall be installed and shall be accessible from the pit access door.
 - (2) A permanent GFCI 15-20 amp duplex receptacle shall be provided in all pits.
 - (3) Where more than one elevator shares a common pit, a GFCI 15-20 amp duplex receptacle shall be located in the area below each elevator and above when traction machines are located in top of the hoistway.

Subpart II

~~((Machinery and Equipment for Electric Existing Elevators))~~

Machinery and Equipment for Existing Electric Elevators

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23200 Scope. This subpart (~~(H, Machinery and Equipment for Electric Elevators,))~~ is a minimum standard for all existing electric elevators. It applies to other equipment only as referenced in the applicable subpart.

~~((Section 3))~~

~~(Absence of Safety Bulkheads))~~

Subpart III

Absence of Safety Bulkheads

Subpart ~~((H))~~ IV

Alterations, Repairs, Maintenance, and Testing

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23605 Examination of standard application material lifts, special purpose ~~((lifts))~~ elevators, electric manlifts, and ~~((hand elevators))~~ hand-powered manlifts. (1) Examination standard application material lifts, special purpose lifts, electric manlifts and hand elevators shall conform to the following:

- (a) Annual examination requirements for electrical elevators. Service providers(Ⓡ) shall furnish documentation to include the following components or systems that shall be examined if installed.
 - (b) Inside car:
 - (i) ~~((Door reopening device;~~

- ~~((ii))~~ Stop switches;
- ~~((iii))~~ (ii) Operating control devices(Ⓢ);
- ~~((iv))~~ (iii) Car lighting and auxiliary lighting(Ⓢ)*;
- ~~((v))~~ (iv) Car emergency signal;
- ~~((vi))~~ (v) Car door or gate;
- ~~((vii))~~ ~~Door closing force;~~
- ~~((viii))~~ (vi) Ventilation(Ⓢ);
- ~~((ix))~~ (vii) Restricted opening of car or hoistway doors;
- ~~((x))~~ (viii) Car ride(Ⓢ; and
- ~~((xi))~~;
- (ix) Stopping accuracy(Ⓢ);
- (x) Car enclosure;
- (xi) Emergency exits;
- (xii) Signs and operating device symbols; and
- (xiii) Equipment exposure to weather*.
- (c) Machine room/control room:
 - (i) Guarding of equipment;
 - (ii) Stop switch;
 - (iii) Disconnecting means and control;
 - (iv) Controller wiring, fuses, grounding, etc.;
 - (v) Machinery supports and fastenings;
 - (vi) Drive machine brakes;
 - (vii) Traction drive machines;
 - (viii) Gears, bearings, and flexible connections;
 - (ix) Winding drum machine;
 - (x) Absorption of regenerated power;
 - (xi) Traction sheaves;
 - (xii) Secondary and deflector sheaves;
 - (xiii) Rope fastenings;
 - (xiv) Operating devices;
 - (xv) Code data plate(Ⓢ)*;
 - (xvi) ~~((AC drives from a DC source;~~
 - ~~((xvii))~~ Slack rope devices;
 - ~~((xviii))~~ (xvii) Wiring diagrams; ~~((and~~
 - ~~((xix))~~ (xviii) Rope retainers or restraints;
 - (xix) Equipment exposure to weather*; and
 - (xx) Fire extinguisher*.
- (d) Top-of-car:
 - (i) Top-of-car stop switch;
 - (ii) Car top light and outlet;
 - (iii) Top-of-car operating device and/or working platforms;
 - (iv) Car, overhead, and deflector sheaves;
 - (v) Crosshead data plate(Ⓢ*);
 - (vi) Traveling cables and junction boxes;
 - (vii) Door and gate equipment;
 - (viii) Car frame and stiles;
 - (ix) Guide rails fastening and equipment;
 - (x) Governor rope;
 - (xi) Governor releasing carrier;
 - (xii) Fastening and hitch plate;
 - (xiii) Suspension means;
 - (xiv) Compensation means;
 - (xv) Working areas on the car top(Ⓢ);
 - (A) Means to prevent unexpected movement.
 - (B) Unexpected car movement device.
 - (C) Operating instructions for unexpected car movement device.
 - (D) Operating instructions for egress and reentry procedure(Ⓢ).

- (xvi) Machinery supports and fastenings;
 - (xvii) Guarding of exposed auxiliary equipment;
 - (xviii) Rope retainers and snag guards;
 - (xix) Position restraints;
 - (xx) Top emergency exit;
 - (xxi) Hoistway construction*; and
 - (xxii) Equipment exposure to weather*.
- (e) Outside hoistway:
- (i) Car platform guard;
 - (ii) Hoistway doors;
 - (iii) ~~((Vision panels*;~~
 - ~~((iv)))~~ Hoistway door locking devices;
 - ~~((v)))~~ (iv) Access to hoistway;
 - ~~((vi)))~~ (v) Emergency and access hoistway openings;
 - ~~((vii)))~~ (vi) Separate counterweight hoistway;
 - (vii) Elevator parking devices; and
 - (viii) Equipment exposure to weather*.

(f) Pit:

- (i) Pit access, lighting, stop switch and condition;
- (ii) Bottom clearance and runby;
- (iii) Traveling cables;
- (iv) Compensating chains, ropes, and sheaves;
- (v) Car frame and platform;
- (vi) ~~((Working areas in the pit;~~
- ~~(A) Means to prevent unexpected movement.~~
- ~~(B) Unexpected car movement device.~~
- ~~(C) Operating instructions for unexpected car movement~~

device:

- ~~(D) Operating instructions for egress and reentry procedure;~~
- ~~((viii)))~~ Machinery supports and fastenings;
- ~~((viii)))~~ (vii) Guarding of exposed auxiliary equipment;
- ~~((and~~
- ~~((ix) Pit inspection operation))~~
- (viii) Equipment exposure to weather*; and
- (ix) Buffers.

Note: (*) ((May be combined with other items on the log.
(**)) A visual component that must be reported to the owner.

(2) Annual examination requirements for hydraulic elevators. Service providers shall furnish documentation to include the following components or systems that shall be examined if installed.

- (a) Inside the car:
- (i) ~~((Door reopening device;~~
 - ~~((ii)))~~ Stop switches;
 - ~~((iii)))~~ (ii) Operating control devices(~~((#));~~
 - ~~((iv)))~~ (iii) Car lighting and auxiliary lighting;
 - ~~((v)))~~ (iv) Car emergency signal;
 - ~~((vi)))~~ (v) Car door or gate;
 - ~~((vii) Door closing force;~~
 - ~~((viii)))~~ (vi) Emergency exit;
 - ~~((ix)))~~ (vii) Ventilation(~~((#));~~
 - ~~((x)))~~ (viii) Signs and operating device symbols;
 - ~~((xi)))~~ (ix) Restricted opening of car or hoistway doors;
 - ~~((xii)))~~ (x) Car ride(~~((#; and~~
 - ~~((xiii)))~~;
 - (xi) Stopping accuracy(~~((#));~~
 - (xii) Car enclosure; and
 - (xiii) Equipment exposure to weather.

- (b) Machine room/control room:
- (i) Stop switch;
 - (ii) Disconnecting means and control;
 - (iii) Controller wiring, fuses, grounding, etc.;
 - (iv) Hydraulic power unit;
 - (v) Tanks*(~~((#; and~~));
 - (vi) Wiring diagrams;
 - (vii) Code data plate*;
 - (viii) Equipment exposure to weather*; and
 - (ix) Fire extinguisher*.
- (c) Top-of-car:
- (i) Top-of-car stop switch;
 - (ii) Car top light and outlet;
 - (iii) Top-of-car operating device and working platforms;
 - (iv) Top emergency exit;
 - (v) Traveling cables and junction boxes;
 - (vi) Door and gate equipment;
 - (vii) Car frame and stiles;
 - (viii) Guide rails fastening and equipment;
 - (ix) Governor rope;
 - (x) Wire rope fastening and hitch plate;
 - (xi) Suspension rope;
 - (xii) Slack rope device;
 - (xiii) Traveling sheave;
 - (xiv) Crosshead data plate*(~~((#; and~~));
 - (xv) Guarding of equipment; and
 - (xvi) Equipment exposure to weather*.
- (d) Outside hoistway:
- (i) Car platform guard;
 - (ii) Hoistway doors;
 - (iii) ~~((Vision panels*;~~
 - ~~((iv)))~~ Hoistway door locking devices;
 - ~~((v)))~~ (iv) Access to hoistway; and
 - ~~((vi) Emergency doors in blind hoistways;))~~ (v) Equip-
 - ment exposure to weather*.
- (e) Pit:
- (i) Pit access, lighting, stop switch, and condition;
 - (ii) Bottom clearance and runby;
 - (iii) Plunger and cylinder;
 - (iv) Traveling cables;
 - (v) Car frame and platform;
 - (vi) Supply piping;
 - (vii) Governor rope tension device;
 - (viii) Machinery supports and fastenings;
 - (ix) Guarding of exposed auxiliary equipment; and
 - (x) Equipment exposure to weather*.

Note: (*) ((May be combined with other items on the log.
(**)) A visual component that must be reported to the owner.

Subpart ~~((IV)) V~~

Lifts for ~~((Physically Handicapped))~~ Persons with Disabilities

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-23701 ((Periodic examinations)) Maintenance and tests on commercial accessibility lifts. (1) ~~((A))~~ One- and five-year inspection test tags in accordance

with ASME A18.1, Section 10.3, shall be attached and visible. A full-load safety test shall be performed with weights on all commercial accessibility equipment.

(2) The owner shall ensure that the accessibility lifts are routinely examined and maintained in accordance with ASME A18.1, Section ~~((40-2))~~ 11 and with this subpart.

(3) Documentation of tests, examinations and maintenance shall be readily accessible on-site.

~~Subpart ((X))~~ VI

Standard Application Material Lifts

~~((Subpart VI~~

~~Alterations, Repairs, Maintenance, and Testing))~~

Subpart ~~((VII))~~ VII

Inclined Private Residence Elevators

Subpart ~~((IX))~~ VIII

Private Residence Inclined Conveyances for Transporting Only Property

Subpart ~~((X))~~ IX

Material Hoists

Subpart ~~((XI))~~ X

Belt Manlifts

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24401 Applicable requirements. (1) ~~((Belt)) Existing belted~~ manlifts shall comply with the ~~((code under which the unit was installed.~~

~~(2) Where a unit was installed when no code was available (pre-1949), the unit shall, as a minimum, comply with the oldest adopted standard (i.e., ASME A90.1-2003).~~

~~(3)) current adopted edition of ASME A90.1 standard and this section.~~

(2) Appendix I and II records shall be kept in a secure location within the building and be readily accessible to maintenance personnel and inspectors.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24457 Up-limit stop devices. (1) Two separate automatic stop devices shall be provided to cut off the power and apply the brake when a loaded step passes the upper terminal landing. One of these devices shall consist of a switch mechanically operated by the belt or ~~((stop))~~ step roller. The second device shall consist of any of the following:

(a) A roller switch located above but not in line with the first switch;

(b) A photocell and light source (an "electric eye"); or

(c) A switch activated by a lever, bar, rod, or plate.

(i) If a plate is used, it shall be positioned above the head pulley so it barely clears a passing step.

(ii) If a bar is used, the bar shall be of the "breakaway" type.

(2) The stop device shall stop the lift before a loaded step reaches a point 24 in. above the top terminal landing.

(3) Once the lift has stopped, the automatic stop device shall be manually reset. Therefore, this device shall be located on the top landing where the person resetting the device has a clear view of both the "up" and "down" runs of the lift; and it shall be impossible to reset from a step.

(4) ~~((Electric))~~ Stop devices shall ~~((meet the following requirements:~~

~~(a) All electric switches that directly open the main motor circuit shall be multiple type switches;~~

~~(b) Photoelectric devices shall be designed and installed so that failure of the light source, the light sensitive element or any vacuum tube used in the circuit will result in shutting off the power to the driving motor;~~

~~(c) In areas where flammable vapors or dust may be present, all electrical installations shall be in accordance with the NEC requirements for those installations; and~~

~~(d) All controller contacts carrying main motor current shall be copper to carbon types unless the circuit is simultaneously broken at two or more points or the contacts are immersed in oil))~~ comply with the requirements found in the current adopted edition of ASME A90.1.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24480 ~~((Five-year test))~~ Additional annual testing requirements. ~~((A five-year test of the belt manlifts shall be conducted, and the test shall be administered under the following conditions:))~~ (1) Qualified people will conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category of the conveyance being tested;

(b) The representative of a firm that manufactured the particular belt manlift who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular belt manlift who is working under the direct supervision of an elevator mechanic licensed in the appropriate category of the conveyance being tested.

(2) ~~((The up capacity of the belt manlift shall be tested with 200 lbs. on each horizontal step. During the up run portion of the test the belt manlift shall not show appreciable slip of the belt when standing or running at rated speed.~~

~~(3) The down capacity of the belt manlift shall be tested with 200 lbs. on each horizontal step. During the down run portion of the test the belt manlift shall not show appreciable slip of the belt when standing or running at the rated speed. The brake shall stop and hold the belt with test load within a maximum of 24 in. of travel.~~

~~(4) After the five-year test has been performed))~~ A tag indicating the date of the test and name of the company performing the test shall be attached in a visible area of the drive

motor machine. The tag shall have all applicable ASME A90.1((;)) Section 8.1 test descriptions and code references.

Subpart ~~((XH~~

~~Special Purpose Elevators~~

~~(Formerly Known as) XI~~

Electric Manlifts((;))

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24500 Scope. (1) These requirements apply to ~~((special purpose personnel elevators))~~ electric manlifts installed prior to January 1, 1999, in facilities in which agricultural products are stored, food products are processed, goods are manufactured, energy is generated, or similar industrial or agricultural processes are performed.

(2) Where a special purpose personnel elevator was installed after January 1, 1999, the conveyance shall comply with the requirements for a special purpose elevator found in the edition of ASME A17.1 or A17.1/B44 Section 5.7 that was in effect at the time.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24516 Maintenance requirements. (1) Examinations, in compliance with WAC 296-96-23605, are to be performed and documented in the maintenance and testing records.

Test tag(s) shall be attached to a wall inside the cab (car enclosure).

(2) Owners of electric manlifts are responsible for ensuring that:

(a) ~~((Elevators))~~ Manlifts and their parts are maintained in a safe condition;

(b) All devices and safeguards required by these regulations are maintained in good working order; and

(c) Maintenance~~((examinations,))~~ and safety tests ~~((be))~~ are performed and documented to the ~~((applicable))~~ requirements found in ASME A17.1 Section 8.6 as applicable to the sections of WAC 296-96-24519 through 296-96-24560.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24528 Car doors and gates. (1) All ~~((elevators))~~ electric manlifts shall have car doors, except on fully enclosed hoistways equipped with hoistway gates and enclosed from the top of the hoistway opening to the ceiling on the landing side.

~~((H))~~ (2) Car doors shall be:

(a) Constructed of solid or perforated material capable of resisting a 75 lb. thrust without deflecting 1/4 in. If perforated material is used, it shall reject a 1 in. diameter ball.

(b) Biparting or otherwise horizontally swung provided the door swings within the elevator car.

~~((2))~~ Interlocks or a combination consisting of mechanical locks and electric contacts shall be provided on car gates on elevators in unenclosed hoistways unless a safe means of self-evacuation is provided. Such means shall be approved by the department. (c) All car doors or gates equipped with an electric contact.

(d) An electrical and mechanical interlock provided when a safe means of self-evacuation (a ladder) is not provided.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24537 Suspension means. (1) There shall be at least 2 hoisting ropes. Each rope shall be:

~~((H))~~ (a) Made of a good grade of elevator traction wire rope;

~~((2))~~ (b) At least 3/8 in. in diameter and possessing a safety factor of 5;

~~((3))~~ (c) Fastened by babbitted tapered elevator sockets or other acceptable methods. If cable clamps are used, a minimum of 3 fist grip or equivalent clamps shall be provided. U-shaped clamps shall not be acceptable.

(2) The car platform shall not be more than 6 in. above the top landing when the counterweight buffer is fully compressed. The counterweight shall be a minimum of 150 mm (6 in.) from the deflector sheave when the car buffer is fully compressed.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24543 Car safeties. All cars suspended or operated from overhead machinery shall be equipped with an approved car safety capable of stopping and holding the car while carrying its rated load.

(1) Car safeties shall be mechanically operated and not be affected by any interruptions in the electrical circuit.

(2) Car safeties and governor controlled safeties shall operate automatically and the control circuit shall be interrupted in the event the safeties set.

(3) All ~~((special purpose elevators))~~ electric manlifts shall be equipped with an overspeed governor that shall not exceed 175 ft./min. and shall deenergize the brake control and motor drive circuits simultaneously when the car safety mechanism is activated.

(4) Winding drum type machines shall have a manual-reset slack rope device that interrupts the drive motor and brake circuits.

~~((5))~~ Separate safety tags shall be used to distinguish the no-load annual safety test and the five-year full load test.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24553 Drive machines. (1) ~~((Elevator machines))~~ Electric manlifts shall be driven by approved-type units.

(a) On direct drive or approved worm gear driven type, a mechanically actuated, electrically released brake shall be installed on the driving unit.

(b) On V belt driven types, a minimum of 4 belts, 1/2 in. minimum size, shall be used to transmit power from the motor to the drive shaft and a mechanically activated, electrically released brake shall be installed on the final drive shaft.

(c) All winding drum machine type elevators shall be equipped with top and bottom final limit switches.

(2) Wherever practical, ~~((elevator))~~ drive machines shall be installed on the top side of the supporting structure.

(3) All components of the driving mechanism and parts subject to stress involved in suspending the load or related equipment shall be designed to withstand 8 times the total weight to be suspended, including load, counterweight, car and cables.

(4) Gears shall be made of steel or equivalent material. Cast iron gears are prohibited.

(5) A working platform, with railings complying with the applicable requirements adopted according to chapter 49.17 RCW, shall be provided to allow for safely working on equipment.

(6) A light with a switch shall be located near the elevator driving machine or the machinery space.

(7) A means to lockout/tagout the ~~((elevator))~~ manlift equipment shall be provided and located near the driving machine or machine space.

(8) The ~~((elevator))~~ manlift machinery shall be protected from the weather.

(9) All sheaves shall be appropriately guarded per the requirements adopted according to chapter 49.17 RCW.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24560 Additional applicable requirements. (1) Car speeds shall not exceed 125 ft./min.

(2) Alterations shall conform with the applicable requirements in WAC 296-96-24519 through 296-96-24557.

(3) Electric manlift controls and disconnects shall be accessible and labeled.

Subpart ~~((XIII))~~

~~Hand Elevators~~

~~((Previously Called)) XII~~

Hand-Powered Manlifts(~~†~~)

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24600 Scope. This section covers ~~((elevator))~~ hand-powered manlifts that have the capacity of 1 person and are installed in a facility prior to January 1, 1999, in which agricultural products are stored, food products are processed, goods are manufactured, energy is generated, or similar industrial or agricultural processes are performed.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24611 Maintenance and test requirements. (1) Maintenance and tests shall comply with the applicable requirements found in ASME A17.1/CSA B44, Section 8.6.

(a) Test tag(s) shall be attached to the inside of the car.

(b) ~~((Hand elevators))~~ Manlifts with wooden rails shall be safety tested with no load annually. There is not a full load testing requirement.

(2) Qualified people shall conduct the test. A qualified person is either:

(a) An elevator mechanic licensed in the appropriate category for the conveyance being tested;

(b) The representative of a firm that manufactured the particular conveyance and who holds a current temporary mechanic's license in this state; or

(c) The representative of a firm that manufactured the particular conveyance who is working under the direct supervision of an elevator mechanic licensed in the appropriate category for the conveyance being tested.

(3) Examinations, in compliance with WAC 296-96-23605, are to be performed and documented in the maintenance and testing records.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24630 Habitable space beneath the car and counterweight. There shall not be habitable space below an elevator hoistway or counterweight shaft unless the floor above the space can withstand ~~((the impact of a freely))~~ an impact 125 percent greater than the impact generated by a free falling car with rated load or counterweight falling from the full height of the hoistway.

AMENDATORY SECTION (Amending WSR 18-18-070, filed 8/31/18, effective 10/1/18)

WAC 296-96-24670 Hoistway requirements. (1) Escape ladders shall be installed and shall extend the full length of the hoistway.

(a) Ladders shall be installed in a manner to provide access to an emergency exit and shall be located in a position so that in an emergency a person can safely transfer from the car platform to the ladder.

Note: Transfer is considered safe when a person can maintain 3 points of contact while making the transfer.

(b) An "IMPAIRED CLEARANCE" sign shall be posted at the bottom of a ladder when the face of the ladder is less than 30 in. from any structure.

(2) The minimum clearance between a car side and the hoistway enclosure is 1 in.

(3) The clearance between a car platform and a landing sill shall be at least 1/2 in. but not more than 1 1/2 in.

(4) Adequate lighting shall be installed and operating in the path of travel.

Note: For the purpose of this section, adequate lighting shall be 5 fc.

Subpart (~~XIV~~) XIII**Casket Lifts**

Note: As a minimum, all such lifts currently installed shall comply with this section. These conveyances are intended to be used only in mortuaries where moving of caskets is necessary. New casket lifts shall comply with either ASME A17.1/CSA B44 Part 7 or with this chapter, Part C1.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-96-02470 Fireman's service for groups of four or more.
- WAC 296-96-02471 Emergency personnel lock box.
- WAC 296-96-11080 Five-year test.
- WAC 296-96-20005 Applicable codes and standards.
- WAC 296-96-23118 Car top railings for hydraulic elevators.
- WAC 296-96-23303 Hydraulic elevators without safety bulkheads.
- WAC 296-96-24416 Landings.
- WAC 296-96-24419 Landing guards and cones.
- WAC 296-96-24422 Guarding of entrances and exits.
- WAC 296-96-24425 Guarding of floor openings.
- WAC 296-96-24428 Guarding of floor landings.
- WAC 296-96-24431 Bottom landings.
- WAC 296-96-24434 Top clearances.
- WAC 296-96-24437 Emergency exit ladders.
- WAC 296-96-24440 Lighting.
- WAC 296-96-24445 Drive machines.
- WAC 296-96-24448 Operating speed.
- WAC 296-96-24451 Step requirements.
- WAC 296-96-24454 Handholds.
- WAC 296-96-24460 Emergency stop devices.
- WAC 296-96-24466 Warning signs.
- WAC 296-96-24470 Restricted use of manlifts.
- WAC 296-96-24478 Inspection requirements.

WSR 21-12-090
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Behavioral Health Administration)

[Filed June 1, 2021, 3:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-08-091.

Title of Rule and Other Identifying Information: Chapter 388-878 WAC, Outpatient competency restoration program.

Hearing Location(s): On July 6, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington [Street S.E.], Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or virtually. Due to the COVID-19 pandemic, hearing may be held via virtual, see DSHS website for more up-to-date information <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings>.

Date of Intended Adoption: Not earlier than July 7, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on July 6, 2021.

Assistance for Persons with Disabilities: Contact Katherine Vasquez, DSHS rules coordinator, phone 360-664-6097, fax 360-664-6185, TTY 711 relay service, email vasquki@dshs.wa.gov, by June 22, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is to develop rules for the conditions of participation in the outpatient competency restoration program, within the framework of the forensic mental health care system. This rule making will include but not be limited to detailing the eligibility requirements for a person to receive outpatient competency restoration, medication management, regular urinalysis testing for defendants with substance use disorder.

Reasons Supporting Proposal: The proposed rule is necessary for administering inpatient and outpatient competency restoration programs which are run by DSHS and the health care authority, respectively.

Statutory Authority for Adoption: RCW 10.77.086, 72.01.090.

Statute Being Implemented: RCW 10.77.086.

Rule is necessary because of federal court decision, *Trueblood et. al. v. Washington State DSHS*.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Nora Selander, P.O. Box 45525, Olympia, WA 98504, 360-902-7637.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Nora Selander, 1115 Washington Street N.E., P.O. Box 45525, Olympia, WA 98504, phone 360-902-7637, email nora.selander@dshs.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule does not impact any small businesses.

A copy of the detailed cost calculations may be obtained by contacting Nora Selander, 1115 Washington Street N.E., P.O. Box 45525, Olympia, WA 98504, phone 360-902-7637, email nora.selander@dshs.wa.gov.

May 27, 2021
Katherine I. Vasquez
Rules Coordinator

Chapter 388-878 WAC

Outpatient competency restoration program.

NEW SECTION

WAC 388-878-0010 Introduction and overview. (1) Outpatient competency restoration program (OCRCP) is one of the elements of the Trueblood Settlement managed by the health care authority in collaboration with the department of social and health services office of forensic mental health services.

(2) The OCRCP provides an option for courts to order competency restoration services in the community for persons who the court determines are not competent to stand trial and are appropriate for community-based treatment.

NEW SECTION

WAC 388-878-0020 Outpatient competency restoration program (OCRCP)—Definitions. "Competency evaluation" means an evaluation performed to determine whether an individual is competent to stand trial.

"Department" means the Washington state department of social and health services.

"Forensic navigator" means department staff who are officers of the court who assist the individual to access services related to diversion and the outpatient competency restoration program.

"Health care authority" or "HCA" means the Washington state health care authority, any division, section, office, unit or other entity of HCA, or any of the officers or other officials lawfully representing HCA.

"Inpatient competency restoration" means competency restoration services performed in an inpatient setting, including a state psychiatric hospital or residential treatment facility.

"Outpatient competency restoration program" or "OCRCP" means competency restoration services that are provided on an outpatient basis to clients who are on conditional release from custody.

"Provider" means the HCA-contracted provider of outpatient competency restoration services, its employees and agents.

NEW SECTION

WAC 388-878-0030 Clinically appropriate for outpatient competency restoration services. (1) The court may order a client into OCRCP when it determines the client is clinically appropriate to receive outpatient competency restoration services. Clinical appropriateness for OCRCP means a

likelihood of being restored to competency in an outpatient setting.

(2) A client may not be clinically appropriate for outpatient competency restoration services if the client exhibits any of the following:

- (a) Is not medically stable;
- (b) Has current suicidal ideation with intent;
- (c) Is at heightened risk of harming others;
- (d) Psychiatric symptoms at a severity that suggests that the client will not be able to care for their basic needs or health and safety in the community even with clinically appropriate housing and case management services; or
- (e) Other concerning behavior or factors which indicates the client is not appropriate for outpatient competency restoration services.

NEW SECTION

WAC 388-878-0040 Assignment of clients and initial intake. (1) The forensic navigator will inquire into a provider's capacity before informing the court that the provider is able to accept a case assignment. Subject to capacity limitations, the designated provider will accept all clients ordered by the court.

(2) Immediately following the case assignment, the provider will make arrangements for the client to attend an initial intake appointment to be conducted by the provider.

(a) The date of this appointment is the program start date.

(b) The provider will develop an initial treatment plan based on the clinical barriers to competency assessed upon intake, and plan for commencing support or clinical services.

(c) The provider will commence OCRCP services for the client as soon as practicable after the initial intake appointment, even if the assessment and initial treatment plan are still being completed.

NEW SECTION

WAC 388-878-0050 Conditions of participation. Every client in receipt of modified conditions of release from the criminal court and ordered for outpatient competency restoration must be clinically appropriate for outpatient competency restoration services, and must be substantially compliant with the following conditions of participation:

- (1) Taking medications or receiving prescribed intramuscular medication, if applicable;
- (2) Abstaining from alcohol and unprescribed drugs;
- (3) Participating in regular urinalysis or other drug testing for clients who have a current substance use disorder diagnosis; and
- (4) Engaging in their care and treatment.

NEW SECTION

WAC 388-878-0060 OCRCP provider reporting. (1) The provider will submit a weekly status update to the assigned forensic navigator via secure email.

(2) The provider will submit a behavioral concern report when there is concern about a client's behavior. The report must be submitted to the forensic navigator via direct notifi-

cation in person or by phone same day, and additionally by secure email within twenty-four hours of concern.

NEW SECTION

WAC 388-878-0070 Early competency evaluation.

The provider will promptly request an early competency evaluation when the provider determines the client may meet one of the following criteria:

- (1) Client exhibits barriers to competency to stand trial that are minimal or not present; or
- (2) Client determined to be not restorable to competency to stand trial.

NEW SECTION

WAC 388-878-0080 Program removal. (1) If a client fails to comply with the conditions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the client is no longer clinically appropriate as determined by the department, the department will remove the client from the program and place the client in an appropriate facility for inpatient competency restoration.

(2) If the provider determines that the client may no longer meet the conditions of participation, the provider will promptly contact the forensic navigator to consider removal from the program.

NEW SECTION

WAC 388-878-0090 Program end. (1) The provider will no longer serve the client in the program following the last date on which the program may legally provide services to the client.

(2) The provider must contact the forensic navigator to make a plan for coordinated transition or continuing outpatient behavioral health services.

WSR 21-12-091

PROPOSED RULES

PROFESSIONAL EDUCATOR

STANDARDS BOARD

[Filed June 1, 2021, 3:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-07-147.

Title of Rule and Other Identifying Information: Chapters 181-77, 181-77A, 181-78A, 181-79A, and 181-85 WAC. Rule making relating to HB [ESHB] 1426, certificate renewal, and continuing education.

Hearing Location(s): On July 14, 2021, at 8 a.m., at Semiahmoo Resort, 9565 Semiahmoo Parkway, Blaine, WA 98230.

Date of Intended Adoption: July 14, 2021.

Submit Written Comments to: Professional Educator Standards Board (PESB), 600 Washington Street S.E., P.O.

Box 47236, Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8:00 a.m., Monday, July 12, 2021.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by Friday, July 2, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule enacts the provisions of HB [ESHB] 1426, certificate renewal relating to equity-based school practices, professional standards for educational leaders, and government-to-government relations. The proposed WAC also includes a clarification and reorganizational changes. All certificates, initial, continuing, residency, and professional, will now be renewed in the same manner in terms of timelines and other structures. Educational staff associates and administrators meeting the requirements for continuing certificates will now be issued professional certificates. Clarifications and updates were also made for clock hours for mentoring, and national board maintenance of certification. Finally, the proposed WAC includes changing standards for clock hour courses and professional growth plans to align with the cultural competency, diversity, equity, and inclusion standards; social emotional learning; and professional educator role standards.

Reasons Supporting Proposal: This rule updates WAC to align with the recently passed [ESHB] HB 1426. This rule further aligns preparation and credentialing WAC with existing and emerging standards. This rule simplifies the system, making it easier for educators and education leaders to understand. The board has reviewed these changes.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, 600 Washington Street S.E., P.O. Box 47236, Olympia, WA 98504-7236, 360-867-8424; Implementation and Enforcement: PESB, 600 Washington Street S.E., P.O. Box 47236, Olympia, WA 98504-7236.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

June 1, 2021

Maren Johnson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 21-08-023, filed 3/29/21, effective 4/29/21)

WAC 181-77-031 Requirements for candidates seeking career and technical education certification who have completed approved teacher preparation programs in a career and technical education endorsement area. Candidates shall complete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-155. Candidates shall complete preparation programs under the standards in chapter 181-78A WAC.

(1) **Initial.**

(a) Candidates for the initial certificate shall hold a baccalaureate degree or higher from an accredited college or university.

(b) Candidates for the initial certificate shall demonstrate competency in one or more of the career and technical education broad areas: Agriculture education, business and marketing education, family and consumer sciences education, and technology education, as listed in WAC 181-77-005.

(c) Candidates for the initial certificate shall complete a state approved career and technical education teacher (~~training~~) preparation program which shall include completion of student teaching in the relevant career and technical education subject area.

(d) Candidates for the initial certificate shall provide documentation of two thousand hours occupational experience in the broad area for which certification is sought. If all or part of the two thousand hours is more than ten years old, candidates must complete an additional three hundred hours of recent (occurring in the last two years) occupational experience. The candidate must also apply for the residency teacher certificate or add the subject area to their teacher certificate in their subject area, (~~take and pass~~) meet the content knowledge (~~test(s)~~) assessment requirement for the subject area, and be issued the residency teacher certificate before the CTE initial certificate can be issued.

(e) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) (~~Initial renewal.~~ Candidates for renewal of the initial certificate must complete one hundred continuing education credit hours in the subject area certified to teach since the initial certificate was issued, or four professional growth plans as defined in WAC 181-85-033. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

~~(3))~~ **Continuing.**

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least fifteen quarter hours or one hundred fifty continuing education credit hours of career and technical education educator training in the career and technical education subject area to be certified completed subsequent to the conferral of the baccalaureate degree, or, hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the career and technical education subject area certified to teach with an authorized employer (i.e., school district(s) or skills center(s)).

~~((4) Continuing certificate renewal.~~ Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate:

(a) ~~Ten quarter hours or one hundred continuing education credit hours of career and technical education educator training, or four professional growth plans as defined in WAC 181-85-033. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(b) Continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsement areas. This STEM continuing education requirement for certificate renewal is as described in WAC 181-85-075(6).) (3) Certificates under this section are renewed under chapter 181-79A WAC.

AMENDATORY SECTION (Amending WSR 21-08-024, filed 3/29/21, effective 4/29/21)

WAC 181-77-041 Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience. Candidates seeking career and technical education certification on the basis of business and industry work experience shall complete the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155 (1) and (2).

(1) **Initial.**

(a) Candidates for the initial certificate shall provide documentation of occupational experience in the specialty area for which certification is sought.

(i) Six thousand hours is required.

(ii) Two thousand hours must be within the past ten years. Candidates may use up to four thousand hours of teaching experience in the specialty area they are experienced in and the remaining two thousand hours must be from non-teaching occupational experience. For STEM, candidate may use all six thousand hours of teaching experience in science, technology, engineering and/or math in lieu of occupational experience. For biomedical sciences and health science biotechnology, candidates may use all six thousand hours of teaching experience in biology in lieu of occupational experience.

(iii) If all or part of the two thousand hours is more than ten years old, an additional three hundred hours of recent (occurring in the last two years) occupational experience is required.

(b) Candidates for the initial certificate shall complete a professional educator standards board approved program under WAC 181-77A-029.

(c) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) ~~(Initial renewal. Candidates for renewal of the initial certificate must complete ten quarter hours of credit or one hundred continuing education credit hours of career and technical education educator training in the subject matter certified to teach since the initial certificate was issued or renewed, or four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.~~

~~Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of com-~~

~~pleting the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.~~

~~(3)) Continuing.~~

~~(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least one of the following:~~

~~(i) Fifteen quarter hours or one hundred fifty continuing education credit hours of career and technical education educator training in the career and technical education subject matter to be certified completed subsequent to the issuance of the initial certificate; or~~

~~(ii) Hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.~~

~~(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years full-time equivalency (FTE) of teaching/coordination in the career and technical education subject matter certified to teach with an authorized employer (i.e., school district(s) or skills center(s)).~~

~~((4) Continuing certificate renewal.~~

~~(a) Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued:~~

~~(i) Ten quarter hours or one hundred continuing education credit hours of career and technical education educator training, or four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~(ii) Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.~~

~~(iii) Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~(iv) An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.~~

~~(b) Continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsement areas. This STEM continuing education requirement for certificate renewal is as described in WAC 181-85-075(6).)) (3) Certificates under this section are renewed under chapter 181-79A WAC.~~

AMENDATORY SECTION (Amending WSR 19-15-112, filed 7/22/19, effective 8/22/19)

WAC 181-77-071 Initial certification of career and technical education administrative personnel. (1) Initial certificate.

(a) Beginning September 1, 2014, a candidate is eligible for the initial career and technical education administrator certification if meeting one or more of the following:

(i) Currently holds a valid residency, continuing or professional administrator certificate; or

(ii) Completion of three years of certificated experience as a (~~certificated~~) career and technical education supervisor, career and technical education instructor, career and technical education counselor, or occupational information specialist; and

(b) In addition, the candidate must meet one or more of the following:

(i) Completion of the state authorized career and technical education administrator internship program; or

(ii) Completion of a state approved program for career and technical education administration.

(c) The career and technical education administrator certificate role standards are as published by the professional educator standards board.

~~((d) The initial career and technical education administrator certificate is valid for five years.~~

(2) Initial certificate renewal.

~~(a) In order to renew the initial career and technical education administrator certificate completion of at least ten quarter hours of college credit or one hundred continuing education credit hours or four professional growth plans in five years since the initial certificate was issued or renewed is required. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.~~

~~Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.~~

~~(b) The initial renewal certificate is valid for five years and may be renewed.~~

~~((3)) (2) Continuing certificate. ((The continuing career and technical education administrator certificate is valid for five years.))~~

(a) In order to receive the continuing career and technical education administrator certificate, in addition to the requirements for the initial certificate, at least fifteen quarter hours

of college credit course work or one hundred fifty continuing education credit hours completed subsequent to the conferral of the initial certificate is required; or, the individual may hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.

(b) Individuals shall provide as a condition for the issuance of a continuing certificate documentation of two years full-time equivalency (FTE) of career and technical administration with an authorized employer (i.e., school district(s) or skill center(s)).

~~((4) Continuing certificate renewal. The continuing career and technical education administrator certificate shall be renewed with the completion of ten quarter credits of college credit course work or the equivalent of one hundred continuing education credit hours in career and technical education, or supervisory or managerial subjects, or four professional growth plans, prior to the lapse date of the first issue of the continuing certificate and during each five year period between subsequent lapse dates. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.~~

~~Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~(5) Previously issued certificate. Any person with a valid career and technical education administrator certificate issued prior to September 1, 2014, under previous standards of the professional educator standards board shall meet requirements of, and may apply for, the continuing career and technical education administrator certificate by the expiration date of the original certificate held. Upon issuance of the continuing career and technical education administrator certificate such person will be subject to continuing certificate renewal requirements of subsection (4) of this section.) (3) Certificates under this section are renewed under chapter 181-79A WAC.~~

AMENDATORY SECTION (Amending WSR 19-15-112, filed 7/22/19, effective 8/22/19)

WAC 181-77-081 Requirements for certification of career guidance specialist. Career guidance specialists must meet the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155:

(1) Probationary certificate.

(a) Beginning July 1, 2018, a candidate is eligible for the probationary career guidance specialist certification if meeting one or more of the following:

(i) Completion of three years of certificated experience as a ~~((certificated))~~ career and technical education administrator, career and technical education instructor, or career and technical education counselor, or occupational information specialist, at the initial ~~((or continuing))~~, continuing, residency, or professional certificate level; or

(ii) Hold a valid educational staff associate - Counselor certificate ~~((as provided in))~~ under WAC 181-79A-221; or

(iii) Provide documentation of six thousand hours of occupational experience of which two thousand hours shall have been in the last ten years, dealing with employment, personnel or with placement and evaluation of workers, or experience providing career guidance, employment or career counseling services.

(b) Such a certificate may be issued upon recommendation by the employing school district according to the following:

(i) The candidate shall have developed a written training plan in cooperation with the career and technical education administrator. The plan must be approved by a local career and technical education advisory committee.

(ii) The plan shall develop procedures and timelines for the candidate to meet the requirements for the initial certificate.

(c) The probationary certificate is valid for two years and is renewable one time for two additional years upon recommendation of the employing district if the individual has completed the procedures outlined for the first year in the written training plan and has made additional progress in meeting the requirements for the initial certificate.

(2) Initial certificate.

~~((The initial career guidance specialist certificate is valid for five years.~~

~~((b))~~ Candidates must meet the eligibility requirements for the probationary certificate outlined in this section.

~~((c))~~ (b) Candidates for the initial certificate shall demonstrate competence through a course of study from a state approved program provider or state approved continuing education provider in the general standards for career guidance specialist which include, but are not limited to, knowledge and skills in the following areas as approved and published by the professional educator standards board:

- (i) Individual and group career guidance skills;
- (ii) Individual and group career development assessment;
- (iii) Information and resources in providing career guidance;
- (iv) Career guidance program planning, implementation, and management;
- (v) Diverse populations;
- (vi) Student leadership development;
- (vii) Ethical/legal issues;
- (viii) Technology;
- (ix) History and philosophy of career and technical education.

~~((d))~~ (c) In order to teach worksite learning and career choices courses, candidates must successfully complete requirements per WAC 181-77A-180.

(3) Initial certificate renewal.

~~((a) Candidates for renewal of the initial career guidance specialist certificate must complete))~~ Certificates under this section are renewed under chapter 181-79A WAC. At least ~~((ten quarter hours of college credit, one hundred continuing education credit hours, or four professional growth plans since the initial certificate was issued or renewed. At least two quarter credits or))~~ fifteen continuing education credit hours must be related to the knowledge and skills areas listed in subsection (2)(c) of this section. ~~((Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

~~Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.~~

~~((b) The initial renewal certificate is valid for five years.))~~

(4) Continuing certificate.

(a) Candidates for the continuing career guidance specialist certificate shall have in addition to the requirements for the initial certificate at least fifteen quarter hours of college credit or one hundred fifty continuing education credit hours completed subsequent to the issuance of the initial certificate; or hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years full-time equivalency (FTE) as a career guidance specialist with an authorized employer (i.e., school district(s) or skills center(s)).

(c) The continuing career guidance specialist certificate is valid for five years.

(5) Continuing certificate renewal. ~~((The continuing career guidance specialist certificate shall be renewed with the completion of ten quarter hours of college credit, the equivalent of one hundred continuing education credit hours, or four professional growth plans prior to the lapse date of the first issuance of the continuing certificate and during each five-year period between subsequent lapse dates. At least four quarter credits or thirty continuing education credit hours must be related to the knowledge and skills areas listed in subsection (2)(c) of this section. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.~~

~~Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.~~

~~An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.))~~ Certificates under this section are renewed under chapter 181-79A WAC. At least thirty continuing education credit hours or the equivalent in credit must be related to the knowledge and skills areas listed in subsection (2)(c) of this section.

(6) Certificates issued under previous standards.

(a) Any person with a valid one-year occupational information specialist, or career and technical education counselor, certificate issued prior to July 1, 2018, under previous standards of the professional educator standards board may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate in subsection (2) of this section.

Holders of expired one-year occupational information specialist, or one-year career and technical education counselor certificates, may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application.

These holders of expired one-year certificates must present evidence to the superintendent of public instruction of completing the continuing education credit hours within the five years prior to the date of the renewal application.

(b) Any person with a valid three-year or five-year occupational information specialist, or career and technical education counselor, certificate issued prior to July 1, 2018, under previous standards of the professional educator standards board may apply for the continuing career guidance specialist certificate by the expiration date of the original certificate held, and will be considered to have met the requirements to obtain a continuing career guidance specialist certificate in subsection (4) of this section.

Holders of expired three-year or five-year occupational information specialist, or three-year or five-year career and technical education counselor certificates, may apply for the initial career guidance specialist certificate, and will be considered to have met the requirements to obtain an initial career guidance specialist certificate with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application.

These holders of expired three-year or five-year certificates must present evidence to the superintendent of public

instruction of completing the continuing education credit hours within the five years prior to the date of the renewal application.

(c) Upon issuance of the ~~((probationary))~~ initial or continuing career guidance specialist certificate, individuals addressed in this subsection will be subject to certificate renewal requirements of this section and chapter 181-79A WAC.

AMENDATORY SECTION (Amending WSR 19-15-112, filed 7/22/19, effective 8/22/19)

WAC 181-77-110 Career and technical education instructor certification reciprocity with community and technical colleges. The superintendent of public instruction will recognize community and technical college instructors certified under WAC 131-16-091 through 131-16-095 when these individuals provide instruction to high school students. These instructors must maintain their certification in good standing and, when employed to provide services within a public common school shall be required to have completed and have on file:

(1) Documentation of completion of a course on the issues of abuse ~~((requirement))~~ and emotional or behavioral distress in students as required under RCW 28A.410.035 and WAC 181-79A-200; and

(2) A background check as defined in WAC 181-79A-150(2) and RCW 28A.410.010; and

(3) Evidence of good moral character as required in WAC 181-79A-155.

AMENDATORY SECTION (Amending WSR 19-15-112, filed 7/22/19, effective 8/22/19)

WAC 181-77-120 Out-of-state candidates. Out-of-state applicants shall be eligible for Washington career and technical education certificates if they meet the standards in chapter 181-77 WAC or as follows: ~~((Candidates who apply for a career and technical education certificate who have not successfully completed course work or an in-service program on issues of abuse as described in WAC 181-79A-030, must complete such course work or in-service program as a condition of the issuance of a career and technical education certificate.))~~

(1) **Initial certificate.** The initial certificate shall be issued by the superintendent of public instruction to a candidate who has two thousand hours of occupational experience and who meets one of the following:

(a) Qualifies under provisions of the interstate compact;

(b) Holds the appropriate degree and, if applicable, credit hours and/or licensing as set forth in this chapter, and has completed a state-approved preparation program in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 181-79A-150(4); or

(c) Holds an appropriate career and technical education certificate issued by another state and ~~((had))~~ has practiced at the P-12 level in that respective role outside the state of Washington for three years ~~((and has completed competency-based teacher training)).~~

(2) **Continuing certificate.** The continuing certificate shall be issued on verification that the candidate has met all requirements for initial and continuing certification in the state of Washington.

AMENDATORY SECTION (Amending WSR 19-15-112, filed 7/22/19, effective 8/22/19)

WAC 181-77A-165 General standards for all career and technical education teacher certification based on business and industry work experience. In addition to the career and technical education teacher role standards as published by the professional educator standards board, all candidates shall demonstrate competence in the following standards:

(1) State learning goals - The teacher is able to apply and integrate the state's learning goals and essential academic learning requirements in program implementation and assessment.

(2) Learning environments - The teacher is able to create and sustain safe learning environments which prepare diverse students for the workplace, advanced training, and continued education.

(3) Student characteristics and related instructional strategies - The teacher is able to identify the diverse needs of students and implement programs and strategies which promote student competency development and success.

(4) Personal and professional attributes - The teacher models personal and professional attributes and leadership skills which reflect productive life and work roles.

(5) Partnerships - The teacher implements and maintains collaborative partnerships with students, colleagues, community, business, industry, and families, which maximize resources and promote student self-sufficiency.

(6) Law - The teacher understands school law and educational policy.

(7) Issues of abuse - The educator understands issues of abuse and emotional or behavioral distress in students as described in WAC (~~(181-79A-030)~~) 181-79A-200.

(8) Candidates shall also demonstrate knowledge and skills in the following areas:

- (a) General and specific safety;
- (b) Career and technical education teaching methods;
- (c) Occupational analysis;
- (d) Course organization and curriculum design;
- (e) Philosophy of vocational education;
- (f) Personal student development and leadership techniques.

AMENDATORY SECTION (Amending WSR 18-17-089, filed 8/14/18, effective 9/14/18)

WAC 181-78A-010 Definition of terms. The following definitions shall be used in this chapter:

(1) "Endorsement" means a specification placed on a certificate to indicate the subject area, grade level, and/or specialization for which the individual is prepared to teach.

(2) "Interstate compact" means the contractual agreement among several states authorized by RCW 28A.690.010 and 28A.690.020 which facilitates interstate reciprocity.

(3) "Program approval" means the approval by the professional educator standards board of an educator preparation program offered by an educator preparation program provider within Washington state.

(4) "Field experience" means learning experiences in school, clinical, or laboratory settings. These learning experiences must be related to specific program outcomes and designed to integrate educational theory, knowledge, and skills in actual practice under the direction of a qualified supervisor.

(5) "A positive impact on student learning" means students' documented increased knowledge and/or demonstration of a skill or skills related to the state approved standards; or for candidates employed by private schools, students' documented increased knowledge or demonstration of a skill or skills related to either:

(a) The state goals or essential academic learning requirements; or

(b) Alternative learning goals established by the private school.

(6) "Collaboration" means ongoing communication among the professional growth team members to reach consensus regarding the content of the candidate's professional growth plan.

(7) "Professional growth plan (PGP)" for program completion means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet the standards set forth (~~(#)~~) under WAC (~~(181-79A-207)~~) 181-78A-233.

(8) "Board" means the professional educator standards board.

(9) "Clinical practice" means a specific, prolonged field experience where the candidate practices or serves in the role for which he or she is being prepared. Clinical practice must take place in an education setting and under the general supervision of a certificated practitioner, with three years' experience in the role for which the candidate is seeking certification.

(10) "Components" means the design features of the program and actions of the provider.

(11) "Domains" means broad categories of educator preparation program providers' performance expectations and outcomes established by the board.

(12) "Educator preparation program" or "program" means all courses, requirements, and other activities leading to a specific educator certification including teaching, administrator, school counselor, or school psychologist certificate and/or teaching certificate endorsement.

(13) "Educator preparation program provider" or "program provider" or "provider" means the entity approved to provide one or more educator preparation programs and responsible for operating the programs in compliance with the board's standards and policies.

(14) "Indicator" means performance data determined by the board that identifies the need for further inquiry into the functioning of a program.

(15) "Internship" means the period of clinical practice for candidates enrolled in approved administrator, school counselor, and school psychologist preparation programs.

(16) "Review period" means the period between annual submissions of indicator performance data when the board may require sponsoring organizations to participate in graduated levels of intervention and reporting.

(17) "Review team" means a group of people with experience, expertise, and training to assess the adequacy of program components and domains.

(18) "Student teaching" means the period of clinical practice for individuals enrolled in teacher preparation programs. This period must include at least four hundred fifty hours of supervised planning, instruction, and reflection.

(19) "Thresholds" means the target level of overall performance, or maximum acceptable variance for indicators approved and published by the board.

AMENDATORY SECTION (Amending WSR 21-08-023, filed 3/29/21, effective 4/29/21)

WAC 181-78A-233 Teacher, principal, career and technical education program administrator, superintendent, and program administrator—Specific program approval domain standard—Novice practitioners. Novice practitioners. Providers prepare candidates who are role ready.

(1) Providers prepare candidates who are ready to engage effectively in their role and context upon completion of educator preparation programs.

(a) The provider demonstrates that program completers perceive their preparation as relevant to the responsibilities they confront on the job, and that the preparation was effective.

(b) Providers demonstrate that completers effectively apply the professional knowledge, skills, dispositions, and technical proficiency that the preparation experiences were designed to achieve.

(c) Faculty and supervisors contextualize educators' practice within contemporary socio-political context and within the administrative regulations in schools and districts.

(d) Inform and orient candidates to Washington state processes of certification, licensure, endorsements and ongoing professional learning opportunities and requirements as they apply to the role for which the candidate is being certified.

(2) Providers prepare candidates to develop reflective, collaborative, and professional growth-centered practices through regular evaluation of the effects of their practice through feedback and reflection.

(a) Prepare educator candidates to understand and demonstrate achievement and improvement in their practice.

(b) Providers prepare candidates to seek new learning to remain current in subject area(s), educational theories, practices, research, and ethical practice.

(c) Ensure that all candidates who complete the program exit the program with a professional growth plan (PGP) for program completion according to the guidance ((provided) published by the professional educator standards board.

Candidates will align their PGPs to the most recently published standards as follows:

Teachers: The Interstate Teacher Assessment and Support Consortium (InTASC) standards.

CTE teachers: Standards under WAC 181-77A-165 and as published by the professional educator standards board.

Principals: The National Policy Board for Educational Administration (NPBEA) National Educational Leadership Preparation (NELP) Standards - Building level.

Superintendents: The National Policy Board for Educational Administration (NPBEA) National Educational Leadership Preparation (NELP) Standards - District level.

Program administrators: The National Policy Board for Educational Administration (NPBEA) National Educational Leadership Preparation (NELP) Standards - District or building level.

CTE directors: Standards as published by the professional educator standards board.

School counselors: American School Counseling Association (ASCA) Professional Standards and Competencies.

School psychologists: National Association of School Psychologists (NASP) Professional Practices.

(3) Providers prepare candidates for their role in directing, supervising, and evaluating paraeducators.

(a) Prepare teacher candidates to direct paraeducators working with students in the classroom.

(b) Prepare administrator candidates to supervise and evaluate paraeducators in schools.

(c) Providers ensure that all educator candidates demonstrate knowledge of the paraeducator standards of practice, as published by the paraeducator board.

(4) Providers require candidates to demonstrate knowledge of teacher evaluation research and Washington's evaluation requirements.

(a) Providers ensure educator candidates examine Washington's evaluation requirements specific to their role, including criteria, four-tiered performance rating system, student growth goals, and the preferred instructional frameworks used to describe the evaluation criteria.

(b) Providers ensure educator candidates demonstrate knowledge and skill in self-assessment, goal setting, and reflective practice.

(c) Providers of administrator programs ensure candidates examine and practice classroom observation skills that recognize and limit bias and promote rater agreement on the four-tiered system.

(d) Providers of administrator programs ensure candidates demonstrate knowledge and skill using student growth data and multiple measures of performance for use in evaluations.

(e) Providers of administrator programs ensure candidates demonstrate knowledge and skill conducting evaluation conferences and developing teacher and principal support plans resulting from evaluations.

(f) Providers of administrator programs ensure candidates demonstrate knowledge and skill in the use of an online tool to manage the collection of observation notes, teacher and principal submitted materials, and other information related to the conduct of the evaluation.

AMENDATORY SECTION (Amending WSR 21-08-023, filed 3/29/21, effective 4/29/21)

WAC 181-79A-030 Definitions. The following definitions shall apply to terms used in this chapter:

(1) The terms, "program approval," "endorsement," and "interstate compact," as defined in WAC 181-78A-010 shall apply to the provisions of this chapter.

(2) "Certificate" means the license issued by the superintendent of public instruction to teachers, administrators, and educational staff associates verifying that the individual has met the requirements set forth in this chapter.

(3) "Certificate renewal" means the process ~~((whereby))~~ by which the validity of a valid or expired certificate ~~((, subject to expiration;))~~ is ~~((extended))~~ regained or extended.

(4) "Certificate reinstatement" means the process ~~((whereby))~~ by which the validity of ~~((an expired))~~ a revoked, surrendered, or suspended certificate is regained.

(5) ~~("Lapsed certificate" means a residency certificate that is subject to the timelines and renewal described under WAC 181-79A-251-))~~ "Continuing education" and "continuing education credit hours" are as defined in WAC 181-85-025 and 181-85-030.

(6) "Expired certificate" means a ~~((teacher))~~ certificate that is no longer valid and can only be ~~((reinstated))~~ renewed under WAC ~~((181-79A-251))~~ 181-79A-240. The expiration date is as calculated in WAC 181-79A-117.

(7) "Issuance date" means the date a certificate was issued by the office of the superintendent of public instruction.

(8) "Validity date" of a residency, professional, initial, continuing, limited certificate, permit, or any CTE certificate under chapter 181-77 WAC, means the actual date of issuance.

(9) "Classroom teaching" means instructing ~~((pupils))~~ students in an ~~((instructional))~~ educational setting.

~~((8))~~ "Approved" (10) "Baccalaureate degree" ~~((for the purpose of this chapter,))~~ means a baccalaureate degree or higher from an accredited college or university ~~((in any of the subject areas of the endorsement listed in chapter 181-82 WAC as now or hereafter amended: Provided, That if)),~~

(a) If a candidate ~~((is))~~ was accepted into a program in Washington state on or before August 31, 2000, and completes the program on or before August 31, 2003, ~~((in accordance with WAC 181-79A-299,))~~ the candidate may hold a baccalaureate degree in any of the subject areas of the endorsements listed in chapter 181-82A WAC ~~((181-79A-302))~~. Such degrees shall require the completion of at least forty-five quarter hours (thirty semester hours) of course work in the subject area ~~((: Provided, That)),~~

(b) If a candidate ~~((who))~~ under (a) of this subsection holds a baccalaureate degree in another academic field, they will not be required to obtain a second baccalaureate degree if ~~((the candidate))~~ they provide~~((s))~~ evidence to the superintendent of public instruction that ~~((he or she has))~~ they have completed the required forty-five quarter or thirty semester hours of course work in one of the subject areas of the endorsements listed in chapter 181-82A WAC.

~~((9))~~ "Issues of abuse course work requirement" means completion of course work or an in-service program on issues of abuse. The content shall discuss the identification of phys-

ical, emotional, sexual, and substance abuse; commercial sexual abuse of a minor, as defined in RCW 9.68A.100; sexual exploitation of a minor as defined in RCW 9.68A.040; information on the impact of abuse on the behavior and learning abilities of students; discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are victims of abuse; and methods for teaching students about abuse of all types and their prevention. Additionally, content areas identified by the legislature in RCW 28A.410.035 shall be required in the issues of abuse course, including knowledge and skill standards pertaining to recognition, initial screening and response to emotional or behavioral distress in students including, but not limited to, indicators of possible substance abuse, violence and youth suicide.

~~((10))~~ "Approved" (11) "Master's degree" for the purpose of this chapter, means a master's or higher degree from an accredited college or university.

~~((11))~~ (12) "Credit hour(s)" means credit (normally 100 level or above) awarded by an accredited institution of higher education.

~~((12))~~ (13) "Previous standards" means a certification system in place prior to a revision in rules that results in changed names and/or validity periods for the certificates issued.

~~((13))~~ (14) "Application for certification" means an application for a certificate or endorsement that includes a signed affidavit (as specified in WAC 181-79A-157) by the applicant. Such application shall be considered valid for two years from the date of receipt by the superintendent of public instruction, or its designee.

~~((14))~~ (15) "A positive impact on student learning" means that a teacher through instruction and assessment has been able to document students' increased knowledge and/or demonstration of a skill or skills related to the state goals and/or essential academic learning requirements. Teachers employed by private schools who are candidates for the professional teaching certificate shall document students' increased knowledge and/or demonstration of a skill or skills related to either:

(a) The state goals or essential academic learning requirements; or

(b) Such alternative learning goals as the private school has established.

~~((15))~~ "Professional certificate support provider" means any organization or institution operating training or consulting services as a public entity or private company holding an appropriate business license.

(16) "Approved private school" means any organization of institution providing educational services to children including, but not limited to, approved private schools, state institutions, juvenile institutions, nonpublic agencies providing special education services, development centers, and bureau of Indian affairs schools.

(17) "College" or "university" means any accredited institution as defined in WAC 250-61-050.

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-79A-110 Denial of application for certification or endorsement by approved professional preparation training institutions. Any person whose application for certification or for an endorsement is denied by ~~((an institution of higher education within the state with an))~~ a professional educator standards board approved ~~((professional))~~ educator preparation program provider, after exhausting any appeal procedures established by ~~((such institution))~~ the provider, may apply directly to the superintendent of public instruction for ~~((such))~~ the certificate or endorsement.

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-79A-117 Uniform expiration date. (1) All certificates issued for one or more stated years shall expire on June 30th of the stated year and shall be calculated as follows:

(a) Certificates issued prior to June 30th of a calendar year, other than limited certificates issued ~~((pursuant to))~~ under WAC 181-79A-231, shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30th of the same calendar year regardless of the date of issuance.

(b) Certificates issued July 1st or later in the calendar year, other than limited certificates issued ~~((pursuant to))~~ under WAC 181-79A-231, shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30th of the next calendar year regardless of the date of issuance.

~~((c) All valid existing certificates scheduled to expire on August 31 of a given year shall be valid until June 30 of the following year.))~~

(2) An applicant who holds a valid certificate, who submits an application for further certification prior to the expiration date of that certificate, and who meets all the requirements of WAC 181-79A-128, shall be granted a one hundred eighty-day permit ~~((as provided in))~~ under chapter 181-79A WAC.

(3) Any educator in the National Guard, U.S. military branch reserves, or U.S. Coast Guard reserve who is called up to active duty by one of the U.S. military branches by order of an authorized agency or official of Washington state government, or by the U.S. Department of Homeland Security for more than thirty consecutive days shall be granted an extension of the expiration date of ~~((his/her))~~ their certificate. The extension shall be equal to the length of active duty service calculated to the next uniform expiration date.

AMENDATORY SECTION (Amending WSR 19-15-110, filed 7/22/19, effective 8/22/19)

WAC 181-79A-123 Certificates—Previous standards. (1) Certificates issued under previous standards which were issued for a specific term shall continue to be effective for that term.

(2) Certificates issued under standards prior to September 1, 2000, which were issued for an indefinite period shall continue to be in effect.

(3) All persons who hold any lifetime standard teacher, administrator, or specialized personnel certificate issued under previous standards of the professional educator standards board shall be issued a lifetime continuing certificate at such time as it is necessary for them to reissue a standard certificate or on application and payment of the fee as specified in WAC 181-79A-130.

(4) Any person who holds a provisional principal's or provisional superintendent's certificate under previous standards of the professional educator standards board shall be issued upon application, including payment of applicable fees, a ~~((continuing))~~ professional administrator's certificate for the appropriate role and such certificates shall be subject to the continuing education requirements of chapter ~~((181-85))~~ 181-79A WAC.

(5) Any person holding a provisional certificate as a school nurse under provisions of chapter 180-84 WAC shall be granted a ~~((continuing))~~ professional certificate.

(6) All persons who hold a valid initial certificate granted under previous standards of the professional educator standards board shall be authorized to meet requirements for continuing certification as set forth in the relevant previous standards except as noted below in subsection ~~((s))~~ (7), (8) or (9) of this section.

~~((7))~~ (7)(a) Any person with a valid initial teacher's certificate granted under previous standards of the professional educator standards board may renew that certificate once after August 31, 2000. The individual shall meet requirements for and apply for the continuing certificate by the expiration date on the renewed certificate or meet requirements for the residency certificate for further certification ~~((: Provided, That))~~. Any person who qualified for initial renewal or continuing certificate under the provisions of ((WAC 181-79A-250 (1)(a))) (b) of this subsection prior to their expiration date, but whose initial certificate expired after August 31, 2000, because they applied for certification too late, may apply once for such renewal or continuing certificate and will be issued such certificate.

(b) An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all coursework requirements from an accredited institution of higher education as defined in WAC 181-79A-030 for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of this section will apply.

(8) Any person with a valid initial administrator certificate granted under previous standards of the professional educator standards board shall meet requirements for and apply for the continuing certificate by the expiration date on the initial certificate or meet requirements for the residency certificate for further certification ~~((: Provided, That))~~. Any person who qualified for a continuing certificate under the provisions of WAC ((181-79A-250 (1))) 181-79A-211 (2)(b) prior to their expiration date, but whose initial certificate expired after June 30, 2004, because they applied for certifi-

cation too late, may apply for such continuing certificate and will be issued such certificate.

(9) Any person with a valid initial ESA certificate granted under previous standards of the professional educator standards board shall meet requirements for and apply for the ~~((continuing))~~ role-appropriate professional certificate by the expiration date on the initial certificate or meet requirements for the role-appropriate residency or initial renewal certificate for further certification ~~((Provided, That))~~. Any person who qualified for a continuing certificate under the provisions of WAC 181-79A-250 (1)(c) prior to their expiration date, but whose initial certificate expired after June 30, 2005, because they applied for certification too late, may apply for ~~((such continuing))~~ a professional certificate and will be issued such certificate.

(10)~~((a))~~ Any person with a valid or expired residency ESA school social work certificate may meet requirements for and apply for the ~~((continuing))~~ professional certificate ~~((by the expiration date on the residency certificate.~~

~~((b) Residency ESA school social worker certificate holders have no residency renewal or professional certificate options and may apply for an initial ESA conversion or continuing ESA certificate under requirements in place at time of application submission)), or meet requirements for renewal of an initial certificate.~~

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-79A-124 Application for certification. An individual who applies for a Washington state certificate, ~~((unless seeking reinstatement pursuant to WAC 181-79A-253 or renewal pursuant to WAC 181-79A-127 or))~~ unless otherwise stipulated by the provisions of WAC 181-79A-123, must meet the requirements in effect at the time of application.

AMENDATORY SECTION (Amending WSR 20-12-064, filed 6/1/20, effective 7/2/20)

WAC 181-79A-130 Fees for certificates. (1) Under provisions of RCW 28A.410.060 and 28A.415.010, the fee for certificates that are valid for more than one year, issued by authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be as follows:

- (a) The first issue of the residency certificate, five dollars for each year of validity;
- (b) The continuing certificate, seventy dollars;
- (c) Renewal of a continuing certificate, one dollar;
- ~~((d))~~ (d) The reinstatement, additional endorsement ~~((on the teaching certificate)), or substitute certificate((s)),~~ fifteen dollars;
- ~~((e))~~ (e) The first peoples' language, culture, and oral tribal traditions teacher certificate, twenty-five dollars;
- ~~((e))~~ (f) All career and technical education certificates, one dollar;
- ~~((f))~~ (g) Any other certificate or credential or any renewal thereof, five dollars for each year of validity; and
- ~~((g))~~ (h) A one-time late fee for a renewed initial or continuing certificate issued under the provisions of WAC

181-79A-123 (7), (8), or (9) for those whose initial certificate had already expired shall be one hundred dollars.

(2) The fee for any other certificate or credential, with a validity period of one year or less, or for any renewal thereof, issued by the authority of the state of Washington and authorizing the holder to serve in the common schools of the state, shall be five dollars.

(3) Officials authorized to collect certificate fees are educational service district superintendents, deans and directors of education at colleges and universities, or their designees. Sovereign tribal governments may collect certificate fees for first peoples' language, culture, and oral tribal traditions certificates. The fee must accompany the application for a certificate and shall be transmitted by the receiving district, college or university, sovereign tribal government or program unit designee at least quarterly to the educational service district within which the application is filed for disposition in accordance with provisions of RCW 28A.410.060 or to the office of the superintendent of public instruction.

(4) Beginning September 1, 2013, the office of the superintendent of public instruction may collect certificate fees.

(5) The fee shall not be refunded unless the application is withdrawn before it is finally considered (i.e., the issuance of a certificate or a written communication denying such issuance) by the superintendent of public instruction or ~~((his or her))~~ their designee.

AMENDATORY SECTION (Amending WSR 21-08-024, filed 3/29/21, effective 4/29/21)

WAC 181-79A-140 ~~((Types of))~~ Certificate((s)) roles. The provisions of this chapter apply to the certificate roles listed in this section. Certificates in the following ~~((types of certificates))~~ roles shall be issued:

(1) **Teacher.** The teacher certificate authorizes service as a classroom teacher.

(2) **Career and technical education.** The career and technical education certificates authorize ~~((s))~~ service in career and technical education programs in accordance with chapter 181-77 WAC.

(3) **First ~~((people's language/culture))~~ peoples' language, culture, and oral tribal traditions.** The first peoples' language, culture, and oral tribal traditions teacher certificate authorizes service in accordance with WAC 181-78A-700.

(4) **Administrator.**

(a) The administrator certificate for principal authorizes services as a building administrator or assistant principal.

(b) The administrator certificates for superintendent or program administrator will be issued to persons who meet professional educator standards board certification standards for service in the roles of superintendent or program administrator.

(5) **Educational staff associate.**

(a) The educational staff associate certificate authorizes service in the following roles ~~((of school speech pathologists or audiologists, school counselors, school nurses, school occupational therapists, school physical therapists, school psychologists, school social workers, school behavior analysts, and school orientation and mobility specialists.))~~:

(i) School behavior analyst;

- (ii) School counselor;
- (iii) School nurse;
- (iv) School occupational therapist;
- (v) School orientation and mobility specialist;
- (vi) School physical therapist;
- (vii) School psychologist;
- (viii) School social worker;
- (ix) School speech pathologist or audiologist.

(b) Nothing within chapter 181-79A WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

~~((6) **Limited certificates.** The following limited certificates are issued to individuals in accordance with WAC 181-79A-231:~~

- ~~(a) Conditional certificate.~~
- ~~(b) Emergency substitute certificate.~~
- ~~(c) Intern substitute teacher certificate.~~
- ~~(d) Transitional certificate.~~

~~(7) **Substitute certificate.** The substitute certificate is issued to individuals in accordance with WAC 181-79A-232.)~~

NEW SECTION

WAC 181-79A-142 Certificate types. The provisions of this chapter apply to the following certificate types:

(1) The following certificate types issued on or after August 31, 1987:

- (a) Residency certificates;
- (b) Professional certificates;
- (c) Initial certificates;
- (d) Continuing certificates;
- (e) Standard certificates are provided for under previous standards of the professional educator standards board as described under WAC 181-79A-123.

(2) Limited certificates. The following limited certificates are issued to individuals in accordance with WAC 181-79A-231:

- (a) Conditional certificate;
- (b) Emergency substitute certificate;
- (c) Intern substitute teacher certificate;
- (d) Transitional certificate.

(3) Substitute certificate. The substitute certificate is issued to individuals in accordance with WAC 181-79A-232.

AMENDATORY SECTION (Amending WSR 21-08-024, filed 3/29/21, effective 4/29/21)

WAC 181-79A-145 Levels and validity of certificates. Two levels of certification may be issued.

(1) **Initial and ~~((continuing))~~ professional certificates:** ~~((Teachers with program completion dates through August 31, 2000, administrators with program completion dates through August 31, 2004, and educational staff associates with program completion dates through August 31, 2005, will be issued the following levels of certificates. Initial and continuing teachers' certificates after August 31, 2000, initial and continuing principal and program administrator certificates after August 31, 2004, and initial and continuing school~~

~~counselor and school psychologist certificates after August 31, 2005, will be issued only to previous Washington certificate holders, under WAC 181-79A-123.~~

~~(a) **Initial certificate.**~~

~~((i)) (a) **Initial certificates.** The initial administrator certificates are valid for seven years (~~and the initial educational staff associate certificates are valid for five years. Initial teacher certificates shall be subject to renewal under WAC 181-79A-250(1) and 181-79A-123~~). Initial administrator certificates shall not be subject to renewal. ~~((Beginning September 1, 2020,))~~ Initial educational staff associate certificates in the roles of school nurse, school occupational therapist, school physical therapist, school speech language pathologist or audiologist, school social worker, school behavior analyst, and school orientation and mobility specialist are subject to renewal.~~

~~((ii)) (b) **Professional certificates.** Initial administrator and educational staff associate certificate holders shall be issued a ~~((continuing))~~ professional certificate if they meet the requirements for such certificate. Initial principal and program administrator certificate holders, and initial school counselor and school psychologist certificate holders shall be issued a residency certificate if their initial certificate has expired or they do not meet the requirements for a continuing certificate.~~

~~((b) **Continuing certificate.** The continuing certificate is valid on a continuing basis as specified in WAC 181-79A-250(2-).)~~

(2) **Residency and professional certificates:** Teachers, administrators, and educational staff associates with program completion dates commencing with the dates indicated below will be issued the following levels of certificates:

(a) **Residency certificate.** The residency certificate will be issued to teachers beginning September 1, 2000, to principal/program administrators beginning September 1, 2004, and to educational staff associate school counselors and school psychologists no later than September 1, 2005.

(b) The first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two years of ~~((successful))~~ service in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students, at which time their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the candidate must meet residency renewal requirements or earn a second-tier certificate for the role under WAC 181-79A-250.

(c) A first issue residency teacher certificate remains undated until the teacher has two years of ~~((successful))~~ experience under WAC 181-79A-206, at which time the residency certificate is dated for five years as verified by the certification office of the office of superintendent of public instruction. Prior to the expiration date, the candidate must earn a professional certificate or meet ~~((residency))~~ renewal requirements under WAC ~~((181-79A-251))~~ 181-79A-240 and 181-79A-244.

(d) **Professional certificate.** The professional certificate will be issued to teachers beginning September 1, 2001, to principals/program administrators beginning September 1, 2007, and to educational staff associate school counselors

and school psychologists beginning September 1, 2007. ~~((The professional certificate is valid for five years and shall be subject to renewal under chapter 181-79A WAC.))~~ A professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards under WAC 181-79A-257 or 181-79A-206 shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater. A professional educational staff associate certificate for school counselors based on the possession of a valid school counselor's certificate issued by the National Board for Professional Teaching Standards National Board Certification under WAC 181-79A-257 or 181-79A-206 shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(3) **First peoples' language, culture, and oral tribal traditions certificates:** The first peoples' language, culture, and oral tribal traditions certificate will be issued beginning in January 2007. The first peoples' language, culture, and oral tribal traditions certificate is valid for five years and shall be subject to renewal under WAC 181-79A-252.

AMENDATORY SECTION (Amending WSR 18-19-085, filed 9/18/18, effective 10/19/18)

WAC 181-79A-150 General requirements—Teachers, administrators, educational staff associates and first peoples' language, culture, and oral tribal traditions teachers. The following requirements are to be met by candidates for certification ~~((as)), including teachers ((including)),~~ career and technical education ~~((teachers))~~ educators, administrators, educational staff associates, or first peoples' language, culture, and oral tribal traditions teachers:

(1) **Age.** No person who is less than eighteen years of age shall receive a certificate to serve in the public or nonpublic schools of Washington state.

(2) **Character.** Applicants for certificates in Washington state who are not holders of a valid Washington state ~~((teacher's, administrator's))~~ teacher, administrator, educational staff ~~((associate's))~~ associate, career and technical education, or first peoples' language, culture, and oral tribal traditions ~~((teacher's))~~ teacher certificate must give evidence of good moral character and personal fitness as specified in WAC 181-79A-155 and must complete a record check through the Washington state patrol criminal identification system and through the Federal Bureau of Investigation at the applicant's expense as required by RCW 28A.410.010; such record check shall include a fingerprint check using a Washington state patrol approved fingerprint card ~~((: Provided, That)).~~ The superintendent of public instruction may waive the record check for an applicant who has had a record check within the two years prior to application.

(3) **Degrees and course work.** A candidate for certification shall hold appropriate degrees, licenses, and additional course work as prescribed in chapters 181-79A and 181-77 WAC or have qualified under WAC 181-79A-257 or 181-78A-700.

(4) **Approved preparation program.** Applicants for certification as teachers, administrators, school counselors, and school psychologists, except as otherwise provided in

WAC 181-79A-257, and 181-79A-231, and in chapter 181-77 WAC, in order to be certified within the state of Washington shall have completed a state approved preparation program in the professional field for which certification is to be issued; such program shall have included a defined course of study and a supervised internship as per chapter 181-78A WAC. Applicants for certification as first peoples' language, culture, and oral tribal traditions teachers shall have completed a sovereign tribal government's first peoples' language, culture, and oral tribal traditions teaching certification program.

(5) **Assessments.** ~~((See))~~ Candidates for certification must complete assessments under chapters 181-01, 181-02, 181-79A WAC, and RCW 28A.410.220.

NEW SECTION

WAC 181-79A-200 Course work on issues of abuse and emotional or behavioral distress in students. (1) The course work on issues of abuse and emotional or behavioral distress in students under RCW 28A.410.035 will include content on the following:

(a) **Issues of abuse:**

(i) Identification of physical abuse, emotional abuse, sexual abuse, and substance abuse;

(ii) Commercial sexual abuse of a minor, as defined in RCW 9.68A.100;

(iii) Sexual exploitation of a minor, as defined in RCW 9.68A.040;

(iv) Information on the impact of abuse on the behavior and learning abilities of students;

(v) Discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse; and

(vi) Methods for teaching students about abuse of all types and their prevention.

(b) **Emotional or behavioral distress in students:**

(i) Knowledge and skill standards pertaining to recognition, initial screening, and response to emotional or behavioral distress in students;

(ii) This includes, but is not limited to, indicators of possible substance abuse, violence, and youth suicide.

(2) Candidates applying for certificate renewal or reinstatement who have not previously completed course work on issues of abuse and emotional or behavioral distress in students must present evidence of completion to the superintendent of public instruction.

(3) Candidates holding an initial or residency certificate applying for a continuing or professional certificate who have not previously completed course work on issues of abuse and emotional or behavioral distress in students must present evidence of completion to the superintendent of public instruction.

AMENDATORY SECTION (Amending WSR 17-23-176, filed 11/21/17, effective 12/22/17)

WAC 181-79A-206 Academic and experience requirements for certification—Teachers. Candidates for teachers' certificates shall complete the following requirements ~~((in addition to those set forth in WAC 181-79A-150)).~~

(1) ~~((Initial/residency-))~~ **Residency.**

Candidates for the ~~((initial or))~~ residency certificate shall hold ~~((an approved))~~ a baccalaureate degree from an accredited college or university ~~((pursuant to))~~ under WAC 181-79A-030~~((5))~~.

(2) ~~((Continuing-))~~

(a) Candidates who apply for a continuing certificate shall have at least forty five quarter hours (thirty semester hours) of upper division and/or graduate work completed from an accredited institution of higher education subsequent to the conferral of the baccalaureate degree: Provided, That if the individual is pursuing study in a new subject matter area or specialization, lower division (freshmen or sophomore level) credit hours in that subject area or specialization shall be accepted toward continuing certification upon completion of the requirements for an endorsement in that subject area or specialization.

(b) Candidates applying for a continuing certificate prior to September 1, 2000, shall have been granted at least two subject area endorsements.

(c) Candidates who apply for a continuing certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6).

(d) Candidates for continuing teachers' certificates shall provide documentation of one hundred eighty days or full-time equivalent or more satisfactory teaching experience with an authorized employer—i.e., school district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) **Professional.**

Candidates for a professional certificate must have successfully completed one or more of the following:

(a) ~~((Candidates for the professional certificate shall have successfully completed))~~ The external portfolio of evidence assessment adopted by the professional educator standards board. ~~((The professional certificate requires successful demonstration of the three standards (effective teaching, professional development, and professional contributions) and twelve criteria, pursuant to WAC 181-79A-207.~~

(i) A candidate may submit a portfolio of evidence to the external assessment for evaluation following two years of successful teaching in a state approved public, private or state operated education program for children as defined in Title 28A RCW: Provided, the candidate was employed at least three quarters time each year or a total of one and one-half full-time equivalent over a minimum of two years as defined in WAC 392-121-212. The portfolio assessment elements shall be determined by the professional educator standards board and include requirements for the candidates to prepare and submit a professional growth plan approved and supported by a professional growth team.

(ii) A professional growth plan identifying the specific competencies, knowledge, skills and experiences needed to meet the standards set forth in WAC 181-79A-207 is prepared by the candidate for a professional certificate, in collaboration with members of the professional growth team.

The candidate will identify a professional growth team as defined in WAC 181-79A-030(14).

(iii) Teacher professional certificate portfolio evidence of assessment pilot participants who have not attended a program but received a "met criteria" on all entries submitted to the pilot assessment would receive the professional certificate and not be required to attend a program.)

(b) ~~((Provided, individuals who hold))~~ A teaching certificate issued by the National Board for Professional Teaching Standards (NBPTS) ~~((shall be deemed to have met the requirements of the professional certificate, in place of the requirements in (a) of this subsection.~~

(c) Candidates who apply for a professional certificate who have not successfully completed course work or an in-service program on issues of abuse, must complete the abuse course work requirement as defined in WAC 181-79A-030(6).

(d) Candidates who have successfully completed the requirements for the professional certificate prior to the expiration of their residency certificate which would subject them to reinstatement according to WAC 181-79A-251 (1)(a)(iii) but failed to apply for the certificate may apply for the professional certificate).

AMENDATORY SECTION (Amending WSR 18-08-025, filed 3/26/18, effective 4/26/18)

WAC 181-79A-211 Academic and experience requirements for certification—Administrators. Candidates for the respective administrative certificate shall complete the following requirements ~~((in addition to those set forth in WAC 181-79A-150 and 181-79A-213)).~~

(1) **Superintendent.**

(a) Initial.

(i) The candidate shall hold ~~((an approved))~~ a master's degree or higher and have completed subsequent to the baccalaureate degree at least forty-five quarter credit hours (thirty semester credit hours) of graduate level course work in education.

(ii) The candidate shall hold or have held a valid teacher, educational staff associate, program administrator or principal certificate; excluding certificates issued under WAC 181-79A-231, or comparable out-of-state certificates.

(b) ~~((Continuing-))~~ **Professional.**

(i) The candidate shall hold ~~((an approved))~~ a master's degree or higher and have completed subsequent to the baccalaureate degree at least sixty quarter credit hours (forty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) The candidate shall hold or have held a valid teacher, educational staff associate, program administrator or principal certificate; excluding certificates issued under WAC 181-79A-231, or comparable out-of-state certificates.

(iii) Candidates applying for ~~((continuing))~~ the professional superintendent's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private

school system—and at least thirty days of such employment with the same employer.

(2) **Principal.**

(a) **Residency.**

(i) The candidate shall hold ~~((an approved))~~ a master's degree or higher.

(ii) The candidate shall have completed an approved program for the preparation of principals.

(iii) The candidate shall have three years of documented ~~((successful))~~ school-based experience in an instructional role with students ~~((; provided))~~. However, candidates who were enrolled in an approved principal program prior to July 1, 2013, are not subject to the three-year minimum experience requirement.

(iv) The candidate shall hold or have held:

(A) A valid teacher's certificate, excluding certificates issued under WAC 181-79A-231; or

(B) A valid education staff associate certificate, excluding certificates issued under WAC 181-79A-231.

(v) Persons whose teacher of educational staff associate certificates were revoked, suspended or surrendered are not eligible for principals certificates.

(b) ~~((Continuing-))~~ Professional.

(i) The candidate shall hold a valid initial principal's certificate, an approved master's degree and shall have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university with a state approved principal program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria ~~((pursuant to))~~ under chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. Such study shall:

(A) Be based on the principal performance domains included in WAC 181-78A-270 (2)(a) or (b);

(B) Be taken subsequent to the issuance of the initial principal's certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved principal preparation program.

~~((ii))~~ ~~((Provided, That a candidate who held a valid initial principal's certificate on August 31, 1998, may meet the academic requirement for the continuing certificate described in WAC 181-79A-211 (2)(e)(i), if the candidate meets requirements for and applies for the continuing certificate by the expiration date on that initial certificate.~~

~~((iii))~~ The candidate must meet requirements for a principal's certificate ~~((pursuant to))~~ under WAC 181-79A-150 (4).

~~((iv))~~ ~~((iii))~~ Candidates applying for the ~~((continuing))~~ professional principal's certificate shall provide documentation of three ~~((contracted))~~ school years of full-time employment as a principal or assistant principal.

~~((e))~~ Professional certificate.

~~((i))~~ ~~The candidate shall have completed an approved professional certificate program by September 2018.~~

~~((ii))~~ ~~The candidate shall have documentation of three contracted school years of employment as a principal or assistant principal.~~

(3) **Program administrator.**

(a) ~~((Initial.~~

~~The candidate shall hold an approved master's degree and have completed subsequent to the baccalaureate degree at least twenty-four quarter credit hours (sixteen semester credit hours) of graduate level course work in education.~~

~~((b))~~ Residency certificate.

The candidate shall hold ~~((an approved))~~ a master's degree or higher and have completed an approved program for the preparation of program administrators.

~~((c))~~ ~~Continuing-))~~ (b) Professional.

(i) The candidate shall hold a valid initial program administrator's certificate, an approved master's degree and have completed subsequent to the baccalaureate degree at least thirty quarter credit hours (twenty semester credit hours) of graduate level course work in education or shall hold a doctorate in education.

(ii) Candidates applying for ~~((continuing))~~ a professional program administrator's certificate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

~~((d))~~ Professional certificate.

~~The candidate shall have completed an approved professional certificate program by September 2018.~~

AMENDATORY SECTION (Amending WSR 19-15-110, filed 7/22/19, effective 8/22/19)

WAC 181-79A-221 Academic and experience requirements for certification—School counselors and school psychologists. Candidates for school counselor and school psychologist certification shall complete the following requirements ~~((in addition to those set forth in WAC 181-79A-150 and 181-79A-226)).~~

(1) **Degree.** It shall not be necessary for any candidate who holds a master's ~~((or doctorate))~~ degree or higher to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the ~~((required))~~ specified master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program. This examination shall be an examination of an accredited institution of higher education or the National Counselor Examination (NCE) of the National Board of Certified Counselors (NBCC) or, in the case of school psychologists, hold the Nationally Certified School Psychologist (NCSP) credential from the National Association of School Psychologists (NASP). If any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

(2) **School counselor.**

(a) **Residency.**

(i) Hold a master's degree in counseling.

(ii) Completion of a state-approved school counselor program.

(b) **Professional.** A professional certificate may be earned by an individual who holds a valid school counseling certificate issued by the National Board for Professional Teaching Standards (NBPTS).

(c) ~~((Beginning with certificates first issued or renewed after July 1, 2015, continuing and))~~ Professional certificates for school counselors include a requirement for suicide prevention training under WAC 181-79A-244, RCW 28A.410.226, and 43.70.442.

(3) **School psychologist.**

(a) **Residency.**

(i) The candidate shall hold a master's degree in school psychology.

(ii) Completion of a state-approved school psychology program.

(b) **Professional.** An individual who holds a valid Nationally Certified School Psychologist (NCSP) credential issued by the National Association of School Psychologists (NASP) shall be deemed to have met the requirement for professional certification.

(c) ~~((Continuing and/or))~~ Professional certificates for school psychologists include a requirement for suicide prevention training under RCW 28A.410.226, 43.70.442, and as described in WAC ~~((181-85-075))~~ 181-79A-244.

AMENDATORY SECTION (Amending WSR 21-08-024, filed 3/29/21, effective 4/29/21)

WAC 181-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist, school speech-language pathologist or audiologist, school social worker, school behavior analyst, and school orientation and mobility specialist. Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist, school social worker, school behavior analyst, and school orientation and mobility specialist certification shall apply directly to the professional certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 181-79A-150, except for a state-approved educator preparation program.

(1) **Degree.** Candidates who hold a master's degree or higher are not required to obtain a role-specific master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that they have completed all course work requirements relevant to the role-specific master's degree.

(2) **Professional transitions to public schools.** Candidates for the initial certificate for the roles under this section must complete the professional transitions to public schools coursework under WAC 181-79A-224.

(3) **Experience.** Candidates for the ~~((continuing))~~ professional certificate for the roles under this section must complete two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, state tribal compact school, state authorized charter school, or state agency that provides educational services for students.

(4) **School nurse.**

(a) **Initial.**

(i) The candidate shall hold a valid department of health license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher in nursing from a program accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(b) ~~((Continuing-))~~ **Professional.**

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed one hundred fifty continuing education credit hours related to education, nursing, or other health sciences since the first issuance of the initial certificate.

(ii) The candidate shall hold a valid department of health license as a registered nurse (RN) in Washington state.

(iii) The candidate shall have completed suicide prevention training under RCW 28A.410.226, 43.70.442, and as described in WAC ~~((181-85-075))~~ 181-79A-244.

(5) **School occupational therapist.**

(a) **Initial.**

(i) The candidate shall hold a valid department of health license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher from an American Occupational Therapy Association approved program in occupational therapy.

(b) ~~((Continuing-))~~ **Professional.**

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed one hundred fifty continuing education credit hours related to occupational therapy, other health sciences, or education since the first issuance of the initial certificate.

(ii) The candidate shall hold a valid department of health license as an occupational therapist in Washington state.

(6) **School physical therapist.**

(a) **Initial.**

(i) The candidate shall hold a valid department of health license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher from an American Physical Therapy Association accredited program in physical therapy.

(b) ~~((Continuing-))~~ **Professional.** The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed one hundred fifty continuing education credit hours related to physical therapy, other health sciences, or education since the first issuance of the initial certificate.

(7) **School speech-language pathologist or audiologist.**

(a) **Initial.** The candidate shall have completed all course work (except special project or thesis) for a master's degree or higher from a college or university program accredited by the American Speech and Hearing Association (ASHA). If the degree program requires a written comprehensive exam relevant to the role, the candidate must successfully complete it. If the degree program does not require a written comprehensive exam relevant to the role, the candidate may present verification from ASHA of a passing score on a national exam in speech pathology or audiology, or a passing score on an exam approved by the professional educator standards board.

(b) ~~((Continuing-))~~ **Professional.**

(i) The candidate shall hold a master's degree or higher.

(ii) The candidate shall have completed the requirements for the initial certificate as a speech language pathologist or audiologist and have completed one hundred fifty continuing education credit hours related to speech language pathology, audiology, other health sciences, or education since the first issuance of the initial certificate.

(8) **School social worker.**(a) **Initial.** The candidate shall hold a masters degree or higher in social work or social welfare from an accredited institution of higher learning.(b) ~~((Continuing-))~~ **Professional.**

(i) The candidate shall have completed the requirements for the initial certificate as a school social worker and have completed one hundred fifty continuing education credit hours related to the role of the school social worker or education since the first issuance of the initial certificate.

(ii) The candidate shall have completed suicide prevention training under RCW 28A.410.226, 43.70.442, and as described in WAC (~~(+81-85-075)~~) 181-79A-244.(9) **Behavior analyst.**(a) **Initial.**

(i) Candidates must hold a valid board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), or other national certificate as approved by the professional educator standards board.

(ii) Candidates must hold a master's degree or higher in any area.

(iii) Candidates must have achieved a passing score on the board certified behavior analyst (BCBA) exam from the behavior analyst certification board (BACB), or other assessment as approved by the professional educator standards board.

(b) ~~((Continuing-))~~ **Professional.**

(i) Candidates must hold a valid board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), or other national certificate as approved by the professional educator standards board.

(ii) The candidate shall have completed the requirements for the initial certificate as a behavior analyst and have completed one hundred fifty continuing education credit hours related to the role of the school behavior analyst or education since the first issuance of the initial certificate.

(10) **Orientation and mobility specialist.**(a) **Initial.**

(i) Candidates must hold a valid certified orientation and mobility specialist (COMS) certificate from the academy for certification of vision rehabilitation and education professionals (ACVREP), valid national orientation and mobility certification (NOMC) from the national blindness professional certification board (NBPCB), or other valid national certificate as approved by the professional educator standards board.

(ii) Candidates must hold a baccalaureate degree or higher in any area.

(b) ~~((Continuing-))~~ **Professional.**

(i) Candidates must hold a valid certified orientation and mobility specialist (COMS) certificate from the academy for certification of vision rehabilitation and education profes-

sionals (ACVREP), valid national orientation and mobility certification (NOMC) from the national blindness professional certification board (NBPCB), or other valid national certificate as approved by the professional educator standards board.

(ii) The candidate shall have completed the requirements for the initial certificate as an orientation and mobility specialist and have completed one hundred fifty continuing education credit hours related to the role or to education since the first issuance of the initial certificate.

AMENDATORY SECTION (Amending WSR 21-08-024, filed 3/29/21, effective 4/29/21)**WAC 181-79A-231 Limited certificates.** All applicants for limited certificates must meet the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2).

Nothing within chapter 181-79A WAC authorizes practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

(1) **Conditional certificate.**(a) **Intent.** The intent of the conditional certificate is to assist school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals.(b) **Roles.**

(i) Teacher roles. The conditional certificate may be issued to teachers in all endorsement areas. Specific minimum requirements defined in this section apply to the following:

- (A) Special education teachers;
- (B) Nonimmigrant exchange teachers;
- (C) Traffic safety education teachers.

(ii) Educational staff associate roles. The conditional certificate may be issued in the following education staff associate roles:

- (A) School counselor;
- (B) School nurse;
- (C) School psychologist;
- (D) School social worker;
- (E) School speech language pathologist or audiologist;
- (F) School behavior analyst;
- (G) School orientation and mobility specialist.

(iii) Administrator role. The conditional certificate may be issued in the following administrator role: Principal.

(c) **Request requirements.**

(i) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that one or more of the following criteria have been met:

(A) The individual has extensive experience, unusual distinction, or exceptional talent in the subject matter to be taught or in the certificate role; or

(B) No person with regular certification in the area is available; or

(C) The individual holds a bachelor's degree or higher from an accredited college or university; or

(D) The individual is enrolled in an educator preparation program specific to the certificate role for which they are applying; or

(E) The individual will serve as a nonimmigrant exchange teacher and meets the specific minimum requirements defined in this section; or

(F) The individual will serve as a traffic safety education teacher and meets the specific minimum requirements defined in this section; or

(G) Circumstances warrant.

(ii) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that all of the following criteria have been met:

(A) The district, educational service district, or approved private school has determined that the individual is competent for the assignment; and

(B) After specific inclusion on the agenda and a formal vote, the school board or educational service district board has authorized the conditional certificate; and

(C) The individual is being certificated for a specific assignment and responsibility in a specified activity/field; and

(D) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities; and

(E) The individual will not be serving in a paraeducator role; and

(F) The individual will be oriented and prepared for the assignment. In addition, prior to service, the individual will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment; and

(G) The individual will be assigned a mentor within twenty working days from the commencement of the assignment; and

(H) A written plan of support will be developed within twenty working days from the commencement of the assignment.

(d) Minimum requirements.

(i) Individuals must complete fifty continuing education credit hours after the issuance of the certificate, and prior to the reissuance of the certificate. Holders of conditional certificates in the role of nonimmigrant exchange teacher are not required to complete fifty continuing education credit hours.

(ii) Special education teacher. The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from an accredited college or university.

The issuance of a conditional certificate to a special education teacher is contingent upon the individual being enrolled in a state-approved teacher preparation program resulting in a teacher certificate endorsed in special education.

An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(iii) Traffic safety education teacher. The applicant qualifies to instruct in the traffic safety program under WAC 392-153-021. Written plans of support and mentors are not required for holders of conditional certificates in the role of traffic safety education teacher.

(iv) Nonimmigrant exchange. A conditional certificate in the role of teacher may be issued to an individual admitted to the United States for the purpose of serving as an exchange teacher.

The individual must be eligible to serve as a teacher in the elementary or secondary schools in their country of nationality or last residence.

(v) School counselor. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for the role, in accordance with Washington requirements for certification.

(vi) School nurse. The applicant possesses a state of Washington license for a registered nurse. Applicants who meet the requirements for the initial school nurse certificate will not be issued a conditional school nurse certificate.

(vii) School psychologist. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for school psychologists, in accordance with Washington requirements for certification.

In addition, the candidate shall have completed all course work for the required master's degree, and shall be participating in the required internship.

(viii) School social worker. The applicant must hold a bachelor's degree or higher from an accredited college or university. The applicant must be enrolled in a master's degree program in social work or social welfare.

(ix) School speech language pathologist or audiologist. The applicant has completed a bachelor's degree or higher from an accredited college or university.

(x) School behavior analyst. Applicants must meet one or more of the following:

(A) Hold a valid Washington state department of health license as an assistant behavior analyst. The district, educational service district, or approved private school must provide a supervisor who meets the department of health requirements for a supervisor of assistant behavior analysts; or

(B) Hold a valid board certified assistant behavior analyst (BCABA) certificate from the behavior analyst certification board (BACB). The district, educational service district, or approved private school must provide a supervisor who meets the behavior analyst certification board (BACB) requirements for a supervisor of board certified assistant behavior analyst (BCABA); or

(C) Hold a bachelor's degree, and, must be enrolled in or have completed the course work requirements for the board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), as verified by the institution providing the behavior analysis course work.

(xi) School orientation and mobility specialist.

(A) Applicants must have completed all requirements for an approved national certificate with the exception of the internship and the assessment, as verified by the institution

providing the coursework for the national certificate. The approved national certificates are the certified orientation and mobility specialist (COMS) certificate from the academy for certification of vision rehabilitation and education professionals (ACVREP), and the national orientation and mobility certification (NOMC) from the national blindness professional certification board (NBPCB).

(B) The school employer must ensure the candidate has access to a mentor who meets the requirements for an intern supervisor set by the academy for certification of vision rehabilitation and education professionals (ACVREP) or the national blindness professional certification board (NBPCB).

(xii) **Principal.** The applicant holds a bachelor's degree from an accredited college or university.

The candidate for conditional certification as a principal shall be enrolled in a program resulting in the issuance of a residency principal certificate, in accordance with Washington requirements for certification.

(e) **Validity.** The conditional certificate is valid for two years or less, and is only valid for the activity or role specified on the certificate.

The reissuance of the special education conditional certificate will have a validity period of three years or less.

(f) Reissuance.

(i) The conditional certificate may be reissued upon request by the employing local school district, approved private school, or educational service district, provided all conditions for the first issuance of the certificate are met.

(ii) The requesting school district, approved private school, or educational service district will verify that the fifty continuing education credit hours earned as a requirement for reissuance of the certificate are designed to support the individual's professional growth, and enhance the individual's knowledge or skills to better assist students in meeting state learning goals.

(iii) **Nonimmigrant exchange.** The conditional certificate in the role of teacher may be reissued while the individual is being sponsored by a school district in an exchange and visiting teacher program.

(iv) **Special education teacher.** Conditional certificates in special education may only be reissued once. The reissuance of the special education conditional certificate will have a validity period of three years or less. The special education conditional certificate may only be reissued upon verification by the preparation program provider that the individual is completing satisfactory progress in a state-approved teacher certificate program leading to a special education endorsement.

(v) **School speech language pathologist or audiologist.** Conditional certificates as a school speech language pathologist or audiologist may be reissued twice.

The conditional certification as a school speech language pathologist or audiologist may be reissued if the candidate is enrolled in a master's degree program resulting in issuance of an initial ESA certificate in accordance with Washington requirements for certification.

The school speech language pathologist or audiologist conditional certificate may be reissued a second time upon verification by the degree provider that the individual is completing satisfactory progress in a master's degree program

resulting in issuance of an initial school speech language pathologist or audiologist certificate in accordance with Washington requirements for certification.

(vi) Conditional certificates as a school behavior analyst may be reissued twice.

(vii) Conditional certificates as a school orientation and mobility specialist may be reissued once.

(2) Transitional certificate.

(a) **Intent.** The transitional certificate provides flexibility for school districts in employing an individual whose continuing certificate has lapsed or expired.

(b) **Roles.** The transitional certificate may be issued in roles of teacher, education staff associate, and administrator for continuing certificates.

(c) Request requirements.

(i) The transitional certificate is issued upon request by a school district, approved private school, or educational service district for an individual whose continuing certificate has lapsed or expired according to ((WAC 181-85-040)) this chapter.

(ii) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of support for the holder to complete the necessary ((~~continuing~~)) certificate renewal requirements under ((WAC 181-85-130)) this chapter.

(d) Minimum requirements.

(i) The holder of the transitional certificate must complete the requirements for ((~~continuing~~)) certificate renewal within two years of the date the holder was issued the transitional certificate.

(ii) No individual whose ((~~continuing~~)) certificate has been suspended ((~~or~~)), revoked, or surrendered shall be eligible to be employed under this section.

(e) **Validity.** The transitional certificate is valid until two years from the date the holder was issued the certificate. The transitional certificate expiration date shall not be calculated under professional educator standards board policy WAC 181-79A-117.

(f) **Reissuance.** The transitional certificate is not renewable and may not be reissued.

(3) Emergency substitute certificate.

(a) **Intent.** The intent of the emergency substitute certificate is to assist school districts, approved private schools, and educational service districts with flexibility in meeting educator workforce needs.

(b) Roles.

(i) The emergency substitute certificate may be issued in the role of teacher.

(ii) To ensure that related services personnel deliver special education services in their respective discipline or profession, the emergency substitute certificate may not be issued for individuals to serve in an educational staff associate role in accordance with 34 C.F.R. Part 300.156 (b)(2)(ii).

(iii) Holders of the emergency substitute certificate may serve in the local school district, approved private school, or educational service district which requested the certificate.

(iv) Holders of the emergency substitute certificate may serve as substitutes if the local school district, approved private school, or educational service district has exhausted or

reasonably anticipates it will exhaust its list of qualified substitutes under WAC 181-79A-232.

(c) Request requirements.

(i) The emergency substitute certificate is issued upon request by a school district, approved private school, or educational service district.

(ii) If the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, emergency substitute certificates may be issued to persons not fully qualified as substitutes under WAC 181-79A-232.

(d) **Validity.** Emergency substitute certificates shall be valid for two years or less.

(e) **Reissuance.** The emergency substitute certificate may be reissued upon request by the employing local school district, approved private school, or educational service district.

(4) Intern substitute certificate.

(a) **Intent.** The intent of the intern substitute certificate is to provide the intern the opportunity to serve as a substitute when the cooperating teacher is absent. This provides the intern with experience while allowing for consistency in instruction for the students.

(b) **Roles.** The intern substitute certificate may be issued to student teachers or intern teachers.

(c) Request requirements.

(i) School districts, educational service districts, and approved private schools may request intern substitute teacher certificates for individuals enrolled in student teaching and internships to serve as substitute teachers in the absence of the cooperating teacher.

(ii) The supervising preparation program provider must approve the candidate for the intern substitute teacher certificate.

(d) **Minimum requirements.** The holder of the intern substitute certificate may be called at the discretion of the school district, education service district, or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher or intern.

(e) **Validity.** The intern substitute teacher certificate is valid for one year or less.

(f) **Reissuance.** The intern substitute certificate may be reissued upon request by the local school district, approved private school, or educational service district, and approved by the educator preparation program provider.

NEW SECTION

WAC 181-79A-240 Certificate renewal and reinstatement. (1) **Certificate types and roles.** Certificate types under WAC 181-79A-142(1), for the certificate roles under WAC 181-79A-140, are renewed or reinstated as described in this section unless otherwise provided for in Title 181 WAC.

(2) **Validity period.** Unless otherwise specified in Title 181 WAC, certificates have a five year validity period. Certificate expiration dates are calculated under WAC 181-79A-117.

(3) Renewal of valid certificates.

(a) **Continuing education requirement:** Certificates are renewed with one hundred continuing education credit hours as described under chapter 181-85 WAC. All other requirements for renewal of the specific certificate type and role must be met.

(b) Applications for certificate renewal may not be submitted more than five years prior to the current certificate expiration date.

(c) If the individual holds a certificate with a validity period of **five years or more**, the continuing education credit hours for certificate renewal must be completed after the issuance of the most recent certificate.

(d) If the individual holds a certificate with a validity period **less than five years**, continuing education credit hours for certificate renewal must be completed within five years prior to the certificate renewal application date.

(4) Renewal of expired certificates:

(a) Evidence of one hundred continuing education credit hours as described under chapter 181-85 WAC, completed within five years prior to the certificate application date, must be submitted to the superintendent of public instruction for renewal of an expired certificate. All other requirements for renewal of a valid certificate of that type and role must be met.

(b) The applicant must submit a fingerprint background check, evidence of character and fitness, and all other requirements under WAC 181-79A-150(2) for certificate candidates.

(c) The expiration date on the renewed certificate will be calculated as if it were a new certificate issued under WAC 181-79A-117.

(5) Reinstatement of revoked, surrendered, or suspended certificates with an expiration date before the reinstatement application date:

(a) For revoked or surrendered certificates, the applicant must meet all conditions for reinstatement under chapter 181-86 WAC. For suspended certificates, the applicant must meet all conditions in the order of suspension under WAC 181-86-035.

(b) Evidence of one hundred continuing education credit hours as described under chapter 181-85 WAC, completed within five years prior to the certificate application date, must be submitted to the superintendent of public instruction for reinstatement of a certificate. All other requirements for renewal of a certificate of that type and role must be met for reinstatement. Instead of completion of current certificate renewal or issuance requirements, individuals eligible under WAC 181-79A-123 may meet certificate renewal or issuance requirements under previous standards.

(c) The applicant must submit a fingerprint background check, evidence of character and fitness, and all other requirements under WAC 181-79A-150(2) for certificate candidates.

(d) The expiration date on the reinstated certificate will be calculated as if it were a new certificate issued under WAC 181-79A-117.

(e) Under RCW 28A.410.110, a revoked certificate may not be reinstated within one calendar year from the date of revocation.

(6) Reinstatement of revoked, surrendered, or suspended certificates with an expiration date after the reinstatement application date:

(a) For revoked or surrendered certificates, the applicant must meet all conditions for reinstatement under chapter 181-86 WAC. For suspended certificates, the applicant must meet all conditions in the order of suspension under WAC 181-86-035.

(b) The applicant must submit a fingerprint background check, evidence of character and fitness, and all other requirements under WAC 181-79A-150(2) for certificate candidates.

(c) The expiration date on the reinstated certificate will be the same as the certificate which was revoked or suspended.

(d) Under RCW 28A.410.110, a revoked certificate may not be reinstated within one calendar year from the date of revocation.

NEW SECTION

WAC 181-79A-244 Certificate renewal requirements. Certificate renewal requirements include the following:

(1) **Equity-based school practices.** Applications for renewal dated July 1, 2023, and beyond, for the certificate types and roles as indicated in (a) and (b) of this subsection, must demonstrate completion of professional learning focused on equity based school practices aligned with the cultural competency, diversity, equity, and inclusion (CCDEI) standards under RCW 28A.410.260. Until the CCDEI standards are adopted by the board, the professional learning must be aligned to the cultural competency standards published by the board.

(a) Completion of at least fifteen continuing education credit hours of professional learning in equity-based school practices is required for renewal of residency, professional, initial, and continuing teacher and CTE teacher certificates.

(b) Completion of at least ten continuing education credit hours of professional learning in equity-based school practices is required for renewal of residency, professional, initial, and continuing principal, program administrator, superintendent, and CTE director certificates.

(c) Individuals holding at least one valid, expiration dated administrator certificate under (b) of this subsection are only required to meet the equity-based school practices requirement for administrators when renewing or reinstating a teacher certificate under (a) of this subsection.

(d) Holders of a valid National Board Certificate issued by the National Board for Professional Teaching Standards (NBPTS) meet the equity-based school practices requirement by maintaining a valid National Board Certificate.

(e) A professional growth plan with at least one goal aligned to the standards in this subsection meets the equity-based school practices requirement.

(2) **National Professional Standards for Education Leaders.** Applications for renewal dated July 1, 2023, and beyond, for holders of residency, professional, initial, and continuing certificates in the role of principal, program administrator, superintendent and CTE director, must

demonstrate completion of ten continuing education credit hours of professional learning focused on the National Policy Board for Educational Administration (NPBEA) Professional Standards for Educational Leaders (PSEL). A professional growth plan with at least one goal aligned to the PSEL standards meets the certificate renewal requirement in this subsection.

(3) **Providers for professional learning in equity-based school practices and National Professional Standards for Education Leaders.** Professional learning under subsections (1) and (2) of this section must be provided by one or more of the following organizations. These organizations may only provide the professional learning for as long as they maintain status as a Washington state approved in-service education agency under chapter 181-85 WAC.

(a) Association of Washington school principals;

(b) Office of the superintendent of public instruction;

(c) Professional educator standards board-approved administrator or teacher preparation program providers;

(d) Washington education association;

(e) Washington state educational service districts; or

(f) Washington state school districts, tribal compact schools, approved charter schools, Washington school for the deaf, Washington school for the blind.

(4) **Government-to-government relationships with federally recognized tribes.**

(a) Applications for renewal dated July 1, 2023, and beyond, for holders of residency, professional, initial, and continuing certificates in the role of principal, program administrator, superintendent and CTE director, must demonstrate completion of five continuing education credit hours of professional learning focused on government-to-government relationships with federally recognized tribes.

(b) Professional learning related to government-to-government relationships with federally recognized tribes must be provided by one or more subject matter experts approved by the governor's office on Indian affairs in collaboration with the tribal leaders congress on education and the office of native education in the office of the superintendent of public instruction.

(c) Completion of a professional growth plan (PGP) may not be used to meet the requirement for professional learning in government-to-government relationships.

(5) **Science, technology, engineering, math (STEM) integration.** Applications for certificate renewal must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, emphasizing the integration of science, technology, engineering, and/or mathematics instruction under RCW 28A.410.2212.

(a) This renewal requirement applies to teachers in the following areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics; secondary science; the designated sciences; and career and technical education. Specific endorsements in these endorsement areas are as published by the professional educator standards board.

(b) Holders of a valid National Board Certificate issued by the National Board for Professional Teaching Standards

(NBPTS) meet this requirement by maintaining a valid National Board Certificate.

(6) **Suicide prevention training requirement.** Renewal of certificates, and issuance of professional certificates, for school counselors, school psychologists, school nurses, and school social workers requires completion of suicide prevention training under RCW 28A.410.226, 43.70.442, and as described in this section.

Approved trainings meeting this suicide prevention training requirement will be as published by the professional educator standards board. The training program must be at least three hours in length. The professional educator standards board will consider these training programs as continuing education credit hours.

(7) **Washington state department of health licenses.**

(a) Holding a valid department of health license as a physical therapist in Washington state is a requirement for renewal of school physical therapist educational staff associate (ESA) certificate.

(b) Holding a valid department of health license as an occupational therapist in Washington state is required for renewal of school occupational therapist ESA certificates.

(c) Holding a valid department of health license as a registered nurse (RN) in Washington state is a requirement for renewal of school nurse ESA certificates.

(8) **National certificates related to educational staff associate roles.**

(a) Holding a valid Board Certified Behavior Analyst (BCBA) certificate from the Behavior Analyst Certification Board (BACB), or other national certificate as approved by the professional educator standards board, is a requirement for renewal of School Behavior Analyst ESA certificates.

(b) Holding a valid Certified Orientation and Mobility Specialist (COMS) Certificate from Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP), or, a valid National Orientation and Mobility Certification (NOMC) from the National Blindness Professional Certification Board (NBPCB), is a requirement for renewal of school Orientation and Mobility Specialist ESA Certificates.

(9) **Continuing education role requirements.** Except as otherwise required in Title 181 WAC, continuing education for the following roles must relate to the described areas.

(a) CTE teacher. Continuing education credit hours for renewal of CTE teacher certificates must relate to career and technical education methods, including those described in RCW 28A.700.010 and WAC 181-77A-165, or to the subject matter certified to teach.

(b) CTE director. Continuing education credit hours for renewal of CTE director certificates must relate to career and technical education, or supervisory or managerial subjects.

(c) School counselor. Continuing education credit hours for renewal must relate to:

(i) American School Counseling Association (ASCA) Professional Standards and Competencies; or

(ii) School Counselor Standards published by the National Board for Professional Teaching Standards (NBPTS).

(d) School psychologist. Continuing education credit hours for renewal certificates must relate to the National

Association of School Psychologists (NASP) Professional Practices.

NEW SECTION

WAC 181-79A-247 Certificate renewal options. (1) **Professional growth plans.** Individuals may use professional growth plans towards meeting the continuing education requirement for certificate renewal. Professional growth plans are defined in WAC 181-85-033. For educators holding multiple certificates in chapter 181-77 or 181-79A WAC, a professional growth plan for teacher, administrator, educational staff associate, or paraeducator shall meet the continuing education requirement for all certificates held by an individual which is affected by this section.

(2) **National Board for Professional Teaching Standards Certification.** Each holder of a certificate affected by this chapter may present a copy of a valid certificate issued by the National Board for Professional Teaching Standards in lieu of the completion of the continuing education credit hours required by this chapter.

(a) A professional certificate renewed with a valid certificate issued by the National Board for Professional Teaching Standards is valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(b) A professional certificate cannot be renewed with the same National Board Certificate used to obtain that professional certificate.

(3) **National Association of School Psychologists credential.** Each holder of a certificate affected by this chapter may present a copy of a valid Nationally Certified School Psychologist credential issued by the National Association of School Psychologists in lieu of the completion of the continuing education credit hours required by this chapter.

(4) **American Speech-Language-Hearing Association certificate.** Each holder of a certificate affected by this chapter may present a copy of a valid certificate of clinical competence (CCC) issued by the American Speech-Language-Hearing Association (ASHA) in lieu of the completion of the continuing education credit hours required by this chapter.

(5) **Behavior analyst certificate.** Hours used to maintain a valid Board Certified Behavior Analyst (BCBA) certificate from the Behavior Analyst Certification Board (BACB), or other national certificate as approved by the professional educator standards board, will be considered by the professional educator standards board as continuing education credit hours, and may be used towards the continuing education credit hour requirement for renewal.

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-79A-260 Establishing equivalency for course work, degrees and programs completed in countries outside the United States. Certification candidates who have completed degree and/or approved professional preparation programs in a country other than the United States may be required to provide one or more of the following:

(1) A transcript from ~~((a regionally))~~ an accredited United States college or university indicating that the ~~((eol~~

lege/university)) college or university has accepted the degree as equivalent to its degree.

(2) A statement of degree equivalency for the appropriate degree from ((~~a foreign~~) an international credentials' evaluation agency approved by the office of the superintendent of public instruction.

(3) A statement from an official of the college or university where the certification program was completed, indicating completion of the program and approval of the program by the agency governing certification in that country.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 181-79A-011	Knowledge and skill requirements of the performance-based certification system—Teachers.
WAC 181-79A-115	Validity date.
WAC 181-79A-118	Expiration and lapse dates of certificates.
WAC 181-79A-207	Standards for teachers with professional certification.
WAC 181-79A-213	Issues of abuse course work requirement for continuing certification—Administrators.
WAC 181-79A-226	Issues of abuse course work requirement for certification—Educational staff associate.
WAC 181-79A-250	Initial and continuing certificates—Renewal, reinstatement, and continuing education requirements.
WAC 181-79A-251	Teacher residency and professional certification—Renewal and reinstatement.
WAC 181-79A-2510	Principal and program administrator residency and professional certification—Renewal and reinstatement.
WAC 181-79A-2511	School counselor residency and professional certification—Renewal and reinstatement.
WAC 181-79A-2512	School psychologist residency and professional certification—Renewal and reinstatement.
WAC 181-79A-253	Reinstatement of continuing certificates and initial ESA certificates.

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-85-025 Continuing education—Definition. As used in this chapter, the term "continuing education" shall mean:

(1) All college and/or university credit, normally 100 level or higher, or continuing education credit awarded by an accredited institution of higher education, under WAC 181-79A-030.

(2) All continuing education credit hours awarded by a vocational-technical college under WAC 181-85-030(3) and all continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

(3) All continuing education credit hours awarded through a business, industry, or government internship that meets the requirements of chapter 181-83 WAC, Internships.

(4) All continuing education credit hours awarded in conformance with WAC 181-85-033.

(5) All continuing education units (CEUs) or other non-credit bearing units awarded by an accredited institution of higher education, under WAC 181-79A-030.

(6) All continuing education approved by the Washington state department of children, youth, and families to maintain staff standards and qualifications for ((~~early learning providers~~) educators and practitioners under ((~~chapter 110-300~~) Title 110 WAC.

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-85-030 Continuing education credit hour—Definition. As used in this chapter, the term "continuing education credit hour" shall mean:

(1) For each college or university semester hour credit, fifteen hours of continuing education credit hours shall be granted.

(2) For each college or university quarter hour credit, ten hours of continuing education credit hours shall be granted.

(3) For each sixty minutes of instruction in coursework provided by a vocational-technical college, one continuing education credit hour shall be granted.

(4) For each sixty minutes of instructional time in continuing education units (CEUs) or other noncredit bearing units provided by an accredited institution of higher education, under WAC 181-79A-030, one continuing education credit hour shall be granted.

(5) For each sixty minutes of instructional time in continuing education approved by the Washington state department of children, youth, and families to maintain staff standards and qualifications for ((~~early learning providers~~) educators and practitioners under ((~~chapter 110-300~~) Title 110 WAC, one continuing education credit hour shall be granted.

(6) For each sixty minutes of approved in-service education including reasonable time for breaks and passing time, one continuing education credit hour shall be granted. In the application of this subsection, the in-service education provider shall determine what is reasonable.

(7) In the application of this section, approved in-service credit hours shall not include:

(a) Routine staff meetings—such as district, building, or area meetings within an agency, district, or building—to discuss or explain operational policies or administrative practices within the agency, district, or building;

(b) Business meetings of professional associations to discuss operational policies or practices of the association;

(c) Social hours or actual meal time.

(8) In-service education agencies may not issue continuing education credit hours to individuals for serving as the instructor for an in-service program for which that individual is the only participant.

(9) In the application of this section, for the purpose of official records ~~((of))~~ documenting the ~~((amount))~~ number of in-service credit hours, the in-service provider or the superintendent of public instruction shall round continuing education credit hours down to the nearest half hour of credits actually completed ~~((—i.e.,))~~ .50 ~~((—and))~~ or .00 ~~((—and))~~. In no case shall an applicant receive credit for an in-service program that was less than a total of one continuing education credit hour.

AMENDATORY SECTION (Amending WSR 20-19-023, filed 9/4/20, effective 10/5/20)

WAC 181-85-033 Activity-based continuing education credit hours. (1) **Eligibility period.** Individuals are eligible for the continuing education credit hours described in this section for up to seven years following the completion date of the indicated activity.

(2) **Professional growth team.**

(a) A professional growth team for the purpose of certificate renewal means a team comprised of the individual renewing the certificate and a minimum of one colleague, who holds a valid Washington state educator certificate under Title 181 WAC, or paraeducator certificate under Title 179 WAC, chosen by the individual.

(b) For consultation and collaboration, members of a professional growth team, excluding the candidate, are eligible for the equivalent of three continuing education credit hours. The team member may not receive more than the equivalent of six continuing education credit hours, as defined by this section, during the period beginning July 1st of one year and ending June 30th of the following year.

(3) **School accreditation site visit team.** A person holding a valid educational certificate under RCW 28A.410.010 is eligible for the equivalent of ten continuing education credit hours for serving on a school accreditation site visit team. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(4) **Mentors and field experience supervisors** ~~((and mentors))~~.

~~((a))~~ Individuals officially designated as a mentor or field experience supervisor by a PESB approved educator preparation program, college or university, school district, educational service district, ~~((an))~~ approved private school, tribal compact school, approved charter school, a state agency providing educational services to students, or the superintendent of public instruction, ~~((a person holding))~~ who hold a valid educational certificate under RCW 28A.410.010 ~~((is))~~, are eligible for the equivalent of thirty continuing education credit hours for service ~~((as a supervisor))~~. The service must be as a mentor or field experience supervisor for teachers, administrators, educational staff

associates, paraeducators, or interns or candidates in these roles. The ~~((person))~~ individual may not receive more than the equivalent of thirty continuing education credit hours under this subsection during a school year period.

~~((b))~~ The term "supervisor" shall mean individuals officially designated as a supervisor or mentor by a college/university, school district, educational service district, ~~an approved private school, a state agency providing educational services to students, or the office of superintendent of public instruction for supervising the training of teacher interns, administrative interns, educational staff associate interns, and paraprofessionals.~~)

(5) **National board certification from the National Board for Professional Teaching Standards (NBPTS):**

(a) Individuals who submitted at least one component of an initial NBPTS national board certification process in 2017 or earlier, and who hold a valid educational certificate under RCW 28A.410.010, are eligible for the equivalent of forty-five continuing education credit hours for submission of a complete portfolio of four components of the National Board for Professional Teaching Standards certification process. Completion of a national board certification process shall be defined as published by the professional educator standards board. Upon achieving national board certification, the individual is eligible for the equivalent of an additional forty-five continuing education credit hours for a total of ninety continuing education credit hours per national board certificate. Beginning January 1, 2022, all individuals submitting complete components as part of an initial NBPTS national board certification process are eligible for continuing education credit hours as described in (b) of this subsection.

(b) Individuals who first submitted a component of an initial NBPTS national board certification process in 2018 or later, and who hold a valid educational certificate under RCW 28A.410.010, are eligible for the equivalent of fifty continuing education credit hours per submission of a complete national board component, for a total of two hundred continuing education credit hours per submission of a complete national board certification portfolio. Completion of a national board component shall be defined as published by the professional educator standards board.

(c) Individuals who submit a complete NBPTS national board renewal portfolio in 2018 or later, and who hold a valid educational certificate under RCW 28A.410.010, are eligible for the equivalent of two hundred continuing education credit hours. Completion of a national board renewal portfolio shall be defined as published by the professional educator standards board.

(d) Individuals who submit a complete NBPTS national board maintenance of certification portfolio, for a national board certificate with a five-year validity period, and who hold a valid educational certificate under RCW 28A.410.010, are eligible for the equivalent of one hundred continuing education credit hours. Completion of a national board maintenance of certification portfolio shall be defined as published by the professional educator standards board.

(6) **External assessment for professional certification.** Teachers who achieve the professional certification through the external assessment under WAC 181-79A-206 are eligi-

ble for the equivalent of one hundred fifty continuing education credit hours.

(7) **First peoples' language, culture, and oral tribal traditions.** In-service training or continuing education in first peoples' language, culture, and oral tribal traditions provided by a sovereign tribal government participating in the Washington state first peoples' language, culture, and oral tribal traditions teacher certification program authorized under RCW 28A.410.045 shall be considered approved in-service training or approved continuing education under this section.

(8) **Scorers for the Washington teacher performance assessment.** Individuals who serve as scorers for the Washington teacher performance assessment are eligible for the equivalent of ten continuing education credit hours for each four assessments scored (~~(, provided that)~~). However, an individual may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period. Additionally, individuals who receive initial training as scorers for the Washington teacher performance assessment are eligible for the equivalent of ten continuing education credit hours.

(9) **Scorers for the Washington ProTeach Portfolio assessment.** Individuals who serve as scorers for the Washington ProTeach Portfolio assessment are eligible for the equivalent of ten continuing education credit hours for completing one full scoring session during a calendar year (~~(, provided that)~~). An individual may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period. Individuals who receive initial training as scorers for the Washington ProTeach Portfolio assessment are eligible for the equivalent of ten additional continuing education credit hours. Continuing education credit hours under this subsection are available through December 31, 2027.

(10) **Professional growth plans.**

(a) Educator individualized professional growth plan means the document which identifies the formalized learning opportunities and professional development activities that relate to the specific competencies, knowledge, skills and experiences needed to meet ~~((the standards at the "career level" benchmarks as published by the professional educator standards board, or other standards for the role as published by the professional educator standards board))~~ one or more of the following:

(i) Professional role standards under WAC 181-85-203, or paraeducator standards of practice under chapter 179-07 WAC;

(ii) Cultural competency, diversity, equity, and inclusion (CCDEI) standards under RCW 28A.410.260. Until the CCDEI standards are adopted by the board, the professional growth plan must be aligned to the cultural competency standards published by the board; or

(iii) Social emotional learning standards, benchmarks, and indicators under RCW 28A.410.270.

(b) Only one professional growth plan may be completed each year. Professional growth plans will be completed during the period beginning July 1st of one year and ending June 30th of the following year. Completion of the professional growth plan will include review by the professional growth team, as defined in subsection (2) of this section.

(c) Individuals may apply their focused evaluation professional growth activities from the evaluation system towards the professional growth plan for certificate renewal under RCW 28A.405.100 (12)(c)(vi).

(d) Until June 30, 2018, individuals who complete the requirements of the annual professional growth plan are eligible for thirty continuing education credit hours. Beginning July 1, 2018, individuals who complete an annual professional growth plan are eligible for twenty-five continuing education credit hours.

(e) For educators holding multiple certificates as described in Title 179 or 181 WAC, a professional growth plan for teacher, administrator, education staff associate, or paraeducator shall meet the requirements of a professional growth plan for all certificates held by an individual.

(11) **Paraeducator certificates.**

(a) Individuals who complete the paraeducator fundamental course of study as described in chapter 179-09 WAC are eligible for the number of continuing education credit hours completed up to twenty-eight continuing education credit hours unless they are issued these continuing education credit hours by a state approved in-service education agency.

(b) Individuals who complete the course work for the English language learner subject matter certificate as described in chapter 179-13 WAC are eligible for the number of continuing education credit hours completed up to twenty continuing education credit hours unless they are issued these continuing education credit hours by a state approved in-service education agency.

(c) Individuals who complete the course work for the special education subject matter certificate as described in chapter 179-15 WAC are eligible for the number of continuing education credit hours completed up to twenty continuing education credit hours unless they are issued these continuing education credit hours by a state approved in-service education agency.

(12) Government-to-government relationships with federally recognized tribes. Individuals who complete the professional learning on government-to-government relationships with federally recognized tribes as described under WAC 181-79A-244 are eligible for the number of continuing education credit hours completed up to five continuing education credit hours every five years unless they are issued these continuing education credit hours by a state approved in-service education agency.

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-85-105 SPI initial notice to certificate holders of continuing education requirement. Upon issuance, renewal, or reinstatement of ~~((an affected professional))~~ a certificate, the superintendent of public instruction shall notify the holder of the ~~((lapse))~~ expiration date and the continuing education requirements of this chapter and chapter 181-79A WAC, and the holder's responsibility to keep accurate records demonstrating attendance at approved in-service education programs. ~~((In addition, the superintendent of public instruction shall make available to the certificate holder a form which indicates compliance with the continuing educa-~~

tion requirements, and which includes instruction for filing the report with the superintendent of public instruction.)

AMENDATORY SECTION (Amending WSR 21-08-022, filed 3/29/21, effective 4/29/21)

WAC 181-85-106 Filing requirement with SPI. Each certificate holder, affected by the continuing education requirements of this chapter, is responsible for filing with the superintendent of public instruction, before the ~~((lapse))~~ expiration date, ((a verification)) an application form supplied by the superintendent of public instruction, which indicates compliance with the continuing education requirements of this chapter. Such form shall:

- (1) Provide space for indicating how the certificate holder met the continuing education requirement.
- (2) Include an attestation by the certificate holder as to the accuracy of the information provided.
- (3) State thereon that falsification or deliberate misrepresentation, including omission, of any material fact shall be an act of unprofessional conduct for which the holder's certificate may be revoked.

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-85-108 Documentation retention period. Documents indicating compliance with the continuing education requirement must be retained by the certificate holder for one year after the ~~((lapse))~~ expiration date or until such documentation is audited by the superintendent of public instruction, whichever is earlier.

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-85-202 Content standards for continuing education credit hours. The content and objectives of in-service continuing education credit hours must relate to one or more of the following:

- ~~(1) ((Opportunities for participants to collect and analyze evidence related to student learning;~~
- ~~(2) Professional certificate standards;~~
- ~~(3) Paraeducator standards of practice as described in Title 179 WAC;~~
- ~~(4) School and district improvement efforts;~~
- ~~(5) Education frameworks and curriculum alignment;~~
- ~~(6) Research-based instructional strategies and assessment practices;~~
- ~~(7) Content of current or anticipated assignment;~~
- ~~(8) Advocacy for students and leadership;~~
- ~~(9) Supervision, mentoring, or coaching; or~~
- ~~(10) Building a collaborative learning community.)~~ Professional role standards under WAC 181-85-203;

(2) Paraeducator standards of practice under chapter 179-07 WAC;

(3) Cultural competency, diversity, equity, and inclusion (CCDEI) standards under RCW 28A.410.260. Until the CCDEI standards are adopted by the board, the content must relate to the cultural competency standards published by the board; or

(4) Social emotional learning standards, benchmarks, and indicators under RCW 28A.410.270.

NEW SECTION

WAC 181-85-203 Professional educator role standards. Professional educator role standards are the most recently published versions of the standards as follows:

- (1) **Teachers.**
 - (a) **Teachers:** National Board for Professional Teaching Standards (NBPTS) Standards, including the 5 Core Propositions;
 - (b) **CTE teachers:** Standards under WAC 181-77A-165 and as published by the professional educator standards board.
- (2) **Administrators.**
 - (a) **Principals, program administrators, superintendents:** National Policy Board for Educational Administration (NPBEA) Professional Standards for Educational Leaders (PSEL);
 - (b) **CTE directors:** Standards as published by the professional educator standards board.
- (3) **Educational staff associates.**
 - (a) **School behavior analysts:** Behavior Analyst Certification Board (BACB) Board Certified Behavior Analyst (BCBA) Task List.
 - (b) **School counselors:**
 - (i) American School Counseling Association (ASCA) Professional Standards and Competencies; or
 - (ii) National Board for Professional Teaching Standards (NBPTS) School Counseling Standards.
 - (c) **School nurses:** American Nurses Association (ANA) and National Association of School Nurses (NASN) School Nursing: Scope and Standards of Practice.
 - (d) **School occupational therapists:** American Occupational Therapy Association (AOTA) Standards for Continuing Competence.
 - (e) **School orientation and mobility specialists:**
 - (i) Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP) Certified Orientation and Mobility Specialist (COMS) Scope of Practice, Body of Knowledge, and Competencies; or
 - (ii) National Blindness Professional Certification Board (NBPCB) National Orientation and Mobility Certification (NOMC), including structured discovery methods and principles.
 - (f) **School physical therapists:** Academy of Pediatric Physical Therapy: Updated competencies for physical therapists working in schools, including competency and related statements, and related clinical skills.
 - (g) **School psychologists:** National Association of School Psychologists (NASP) Professional Practices.
 - (h) **School social workers:** National Association of Social Workers (NASW) Standards for School Social Work Services.
 - (i) **School speech language pathologists or audiologists:**
 - (i) American Speech Language Hearing Association (ASHA) Standards for Clinical Competence in Speech Language Pathology: Knowledge and skills outcomes; or

(ii) American Speech Language Hearing Association (ASHA) Standards for Clinical Competence in Audiology: Knowledge and skills outcomes.

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-85-205 Required recordkeeping by approved in-service education agencies. Each approved in-service education agency shall provide the following record service:

(1) Documentation that the in-service education program, including the program agenda as described in WAC 181-85-200(2), received approval by the board or committee (~~(provided in)~~ under WAC 181-85-045(2) prior to offering the in-service program;

(2) A copy of the summary of evaluations required by WAC 181-85-200(7);

(3) A copy of the minutes of the board or committee which demonstrates that such board or committee reviewed the evaluation required by WAC 181-85-200(6);

(4) A list, for each in-service education program, of all participants who have requested continuing education credit hours by signing a registration form made available at the in-service education program. Such registration form shall provide space for the registrant to indicate (~~(he or she is)~~) they are requesting fewer hours than the amount calculated for the entire in-service education program due to partial attendance;

(5) The registrant shall be provided a form to be completed at the in-service education program which includes the necessary information for recording in-service credits, and upon request if such request is made within seven calendar years of such in-service education program, including the number of continuing education credit hours recorded. In addition, the registrant shall be given specific instructions regarding the need to preserve the record and how to correct the record if attendance or credit hours has been recorded by the approved in-service education agency inaccurately; and

(6) The above records shall be available for inspection by the superintendent of public instruction for a period of seven calendar years from the date of each in-service education program. The amendments to this section reducing the amount of recordkeeping by in-service providers shall apply retroactively to August 31, 1987.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 181-85-020 Effective date and applicable certificates.
- WAC 181-85-035 Lapse date—Definition.
- WAC 181-85-040 Lapsed—Definition.
- WAC 181-85-075 Continuing education requirement.
- WAC 181-85-100 Calculation of lapse dates.
- WAC 181-85-130 Reinstatement of lapsed certificate.

WSR 21-12-093
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 1, 2021, 5:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-08-086.

Title of Rule and Other Identifying Information: Chapter 392-342 WAC, State assistance in providing school plant facilities—Educational specifications and site selection and chapter 392-344 WAC, State funding assistance in providing school plant facilities—Procedural regulations.

Hearing Location(s): On July 7, 2021, at 10:00 a.m., webinar via Zoom (call-in option will be available). Due to the public health emergency related to the COVID-19 virus pandemic, this public hearing will take place by webinar via Zoom (with a call-in option). There will be no physical location for the hearing. For information on registering and participating, please visit office of superintendent of public instruction's (OSPI) website at <https://www.k12.wa.us/policy/funding/ospi-rulemaking-activity>. For questions, please email kristin.murphy@k12.wa.us.

Date of Intended Adoption: July 9, 2021.

Submit Written Comments to: Scott Black, OSPI, School Facilities, P.O. Box 47200, Olympia, WA 98504, email schoolfacilitiesrules@k12.wa.us, by July 7, 2021.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email Kristin.murphy@k12.wa.us, by June 30, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule changes is to apply lean management principles, as required by section 5015, chapter 413, Laws of 2019, to the process related to applying for state assistance for school plant facilities, also known as the "D-Forms" process.

Reasons Supporting Proposal: Amending the rules by applying lean management principles and other performance management strategies is intended to reduce undue administrative burdens on school districts participating in this school facilities process.

Statutory Authority for Adoption: RCW 28A.525.020.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Scott Black, OSPI, 600 South Washington Street, Olympia, 360-742-4028; Enforcement: Randy Newman, OSPI, 600 South Washington Street, Olympia, 360-725-6268.

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

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

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

Is exempt under RCW 19.85.030.

Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85

RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

June 1, 2021
Chris P. S. Reykdal
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending WSR 10-09-008, filed 4/8/10, effective 5/9/10)

WAC 392-342-200 Applications and forms. Applications and forms applicable to the provisions of this chapter for school facilities shall be as follows:

(1) Applications for preliminary funding status pursuant to WAC 392-342-050 shall be designated as ~~((SPI Form D-5))~~ OSPI D-5 Application.

(2) Grants of preliminary funding status pursuant to WAC 392-342-050 shall be given to districts through ~~((SPI Form D-6))~~ OSPI D-6 Form.

AMENDATORY SECTION (Amending WSR 06-16-032, filed 7/25/06, effective 8/25/06)

WAC 392-344-045 Notice to proceed with design. After completion of the educational specifications review process as set forth in WAC 392-344-040 and after ~~((approval))~~ review of the site, the superintendent of public instruction shall transmit to the school district a notice to proceed with the design of the school facility.

AMENDATORY SECTION (Amending WSR 17-17-165, filed 8/23/17, effective 9/23/17)

WAC 392-344-085 Construction and other documents—Submittal. School district projects with secured funding assistance as of July 2018. (1) For the purpose of determining that the provisions set forth in chapters 392-341 through 392-344 and 392-347 WAC have been complied with prior to the opening of bids of any project to be financed with state funding assistance, the school district shall have on file with the superintendent of public instruction the following:

(a) One digital copy of ~~((the construction documents forwarded by others))~~ selected bid documents to include general conditions and bid forms, site plans, floor plans with room names and numbers, and other bid documents when requested by OSPI for specific projects;

(b) Cost estimate of construction on a form approved by the superintendent of public instruction, completed and signed by the architect-engineer;

(c) Signed copy or photocopy of letters of approval by other governmental agencies in accordance with WAC 392-344-090;

(d) Area analysis on a form approved by the superintendent of public instruction in accordance with chapter 392-343 WAC;

(e) Complete listing of construction special inspections and/or testing to be performed by independent sources that are included in the project pursuant to WAC 392-343-100;

(f) School district board acceptance of a value engineering report and its implementation.

The report shall include the following:

(i) A brief description of the original design;

(ii) A brief description of the value engineering methodology used;

(iii) The areas analyzed;

(iv) The design alternatives proposed;

(v) The cost changes proposed;

(vi) The alternates accepted; and

(vii) A brief statement explaining why each alternate not accepted was rejected;

(g) Certification by the school district that a constructability review report was completed.

The report shall include:

(i) A brief description of the constructability review methodology used;

(ii) The area analyzed;

(iii) The recommendations accepted; and

(iv) A brief statement explaining why each recommendation not accepted was rejected;

(h) Completed building condition assessment (BCA) as required by WAC 392-343-535 for every school facility in the district.

(i) Completed health and safety assessment as required by WAC 392-343-535, ~~((or))~~ of existing buildings for which state funding assistance is being requested.

(2) If the above documents reflect an increase in square foot size from the application approved by the superintendent of public instruction as per WAC 392-344-025 which will result in an increase in state funding assistance, a new application must be submitted to the superintendent of public instruction.

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

WAC 392-344-165 Documents required for release of retainage by school district. Release of retainage on contracts shall be subject to receipt by the superintendent of public instruction of the following documents:

(1) These documents shall be required no later than thirty days after official acceptance:

(a) ~~((Properly executed state invoice voucher as per the requirements of WAC 392-344-145;~~

~~((b)))~~ Architect/engineer certificate(s) of completion;

~~((c)))~~ (b) School district board of directors' resolution of final acceptance signed by the authorized agent of the school district;

~~((d)))~~ (c) School district board of directors' resolution accepting the building commissioning report;

~~((e)))~~ (d) Certification by the authorized agent of the school district that the requirements of RCW 39.04.320 apprenticeship utilization have been met;

(e) Final project costs as defined by the superintendent of public instruction.

(2) These documents shall be required no later than sixty days after official acceptance:

(a) Certification by the authorized agent of the school district that the district has on file all affidavits of wages paid in compliance with RCW 39.12.040;

(b) After expiration of forty-five days following acceptance of the project by the school district, a signed statement by the authorized agent of the school district that no lien(s) is on file with the school district or a certified list of each lien is on file with the school district. A copy of each lien shall be forwarded to the superintendent of public instruction;

(c) Either a permanent or temporary occupancy permit by building official of the jurisdiction. Also required are release documents as defined in chapter 60.28 RCW, RCW 50.24.130, and 51.12.050.

AMENDATORY SECTION (Amending WSR 06-16-032, filed 7/25/06, effective 8/25/06)

WAC 392-344-200 Applications and forms. In addition to applications and forms prescribed in WAC 392-341-200 and 392-342-200, commencing January 1, 1986, applications and forms applicable to the provisions of this chapter for school facility projects shall be as follows:

(1) Applications for secured funding status pursuant to WAC 392-344-107 shall be designated as ~~((SPI Form D-7))~~ OSPI Application D-7.

(2) Grants of secured funding status pursuant to WAC 392-344-107 shall be given to districts through ~~((SPI Form D-8))~~ OSPI D-8 Form.

(3) Grants of authority for school districts to proceed without secured funding status pursuant to WAC 392-344-107 shall be given to districts through ~~((SPI Form D-8-1))~~ OSPI D-8-1 Form.

(4) Applications for authority to enter into contracts pursuant to WAC 392-344-110 shall be designated as ~~((SPI Form D-9))~~ OSPI D-9 Application.

(5) Grants of authority to enter into contracts pursuant to WAC 392-344-115 shall be given to districts through ~~((SPI Form D-10))~~ OSPI D-10 Form.

(6) Grants of authority for school districts to enter into contracts without secured funding status pursuant to WAC 392-344-115 shall be given to districts through ~~((SPI Form D-10-1))~~ OSPI D-10-1 Form.

(7) Applications for SPI to release retainage pursuant to WAC 392-344-165 shall be designated as ~~((SPI Form D-11))~~ OSPI D-11 Application.

(8) Grants of release of final retainage pursuant to WAC 392-344-165 shall be given through ~~((SPI Form D-12))~~ OSPI D-12 Form.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-344-105 Bids—Advertisement.

WSR 21-12-104

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 2, 2021, 9:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-21-072.

Title of Rule and Other Identifying Information: Long-term services and supports. Adding chapter 192-900 WAC, Definitions: WAC 192-900-005 Aggrieved party, 192-900-010 Calendar quarter, 192-900-015 Employer, 192-900-020 Employer agent, 192-900-025 Interested parties, 192-900-030 Self-employed, and 192-900-035 Terms meaning deliver; adding chapter 192-910 WAC, Assessing and collecting premiums: WAC 192-910-005 Employer reporting requirements, 192-910-010 When are employer premium payments due?, 192-910-015 What are the employer's responsibilities for premium deductions?, and 192-910-020 How are payments applied to long-term services and supports premiums?; adding chapter 192-915 WAC, Self-employed persons: WAC 192-915-005 Election of coverage for self-employed persons, 192-915-010 What are reportable wages for self-employed persons electing coverage?, and 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage?; adding chapter 192-920 WAC, Collective bargaining agreements: WAC 192-920-005 Parties to collective bargaining agreements; and adding chapter 192-925 WAC, Appeals and procedure: WAC 192-925-005 Adoption of model rules, 192-925-010 Who can appeal or submit a petition for review?, and 192-925-015 Sections of general procedural rules for appeal under chapter 192-800 WAC apply.

Hearing Location(s): On July 8, 2021, at 9:00 a.m., call in number 360-407-3780, Pin 930377#. Hearing will be held by conference call due to COVID-19.

Date of Intended Adoption: On or after July 15, 2021.

Submit Written Comments to: April Amundson, Employment Security Department (ESD), P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, by July 8, 2021.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, state EO officer, phone 360-480-5708, TTY 711, email Teckstein@esd.wa.gov, by July 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules are the second of three phases of rules to implement portions of the long-term services and supports trust program (LTSS) (Title 50B RCW) under the ESD's authority. The proposed rules address definitions, assessing and collecting premiums, self-employed elective coverage, collective bargaining agreements, and appeals.

Reasons Supporting Proposal: The proposed rules are necessary to implement portions of LTSS and provide guidance to employees, employers, and self-employed individuals regarding program operations.

Statutory Authority for Adoption: RCW 50B.04.020, 50B.04.080, 50B.04.090, 50B.04.120.

Statute Being Implemented: RCW 50B.04.080, 50B.04.090, 50B.04.120.

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

Name of Proponent: ESD, leave and care division, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: April Amundson, Lacey, Washington, 360-485-2816.

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

A cost-benefit analysis is not required under RCW 34.05.328. The following rules are exempt under RCW 34.05.328 (5)(b)(v), (c)(i)(A) and (C) because the rules are dictated by statute (RCW 50B.04.120) and are procedural rules related to internal operations of the department and agency hearings: WAC 192-900-005 Aggrieved party, 192-900-025 Interested parties, 192-925-005 Adoption of model rules, 192-925-010 Who can appeal or submit a petition for review?, and 192-925-015 Sections of general procedural rules for appeal under chapter 192-800 WAC apply. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for paid family and medical leave (PFML) under Title 50A RCW. These rules ensure standards and procedures for LTSS are consistent with rules adopted for PFML under Title 50A RCW. The rules are also procedural rules that adopt policies related to internal operations of the department and define requirements related to agency hearings. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

The following rules are exempt under RCW 34.05.328 (5)(b)(v) and (c)(i)(C) because the rules are dictated by statute (RCW 50B.04.080) and are procedural rules related to internal operations of the department: WAC 192-900-010 Calendar quarter, 192-900-015 Employer, 192-900-020 Employer agent, 192-900-035 Terms meaning deliver, 192-910-005 Employer reporting requirements, 192-910-010 When are employer premium payments due?, 192-910-015 What are the employer's responsibilities for premium deductions?, 192-910-020 How are payments applied to long-term services and supports premiums?, and 192-920-005 Parties to collective bargaining agreements. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment, collection, and reporting procedures required for PFML under Title 50A RCW. These rules ensure standards and procedures for assessing and collecting premiums for LTSS are consistent with rules adopted for PFML under Title 50A RCW. The rules are also procedural rules that adopt policies related to internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

The following rules are exempt under RCW 34.05.328 (5)(b)(v) and (c)(i)(C) because the rules are dictated by statute (RCW 50B.04.090) and are procedural rules related to internal operations of the department: WAC 192-900-030 Self-employed, 192-915-005 Election of coverage for self-employed persons, 192-915-010 What are reportable wages for self-employed persons electing coverage?, and 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage? RCW 50B.04.090 outlines requirements for self-employed individuals electing coverage under Title 50B.04

RCW and requires the department to adopt rules for determining the hours worked and the wages of individuals electing coverage.

The rules are also procedural rules that adopt policies related to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328 (5)(c)(iii).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Explanation of exemptions: The following rules are exempt under RCW 34.05.310 (4)(b), (e), and (g) because the rules are dictated by statute (RCW 50B.04.120), relate to internal operations of the department, and relate to agency hearings: WAC 192-900-005 Aggrieved party, 192-900-025 Interested parties, 192-925-005 Adoption of model rules, 192-925-010 Who can appeal or submit a petition for review?, and 192-925-015 Sections of general procedural rules for appeal under chapter 192-800 WAC apply. RCW 50B.04.120 requires that standards and procedures for appeals be consistent with those adopted for PFML under Title 50A RCW.

The following rules are exempt under RCW 34.05.310 (4)(e) because the rules are dictated by statute (RCW 50B.04.080): WAC 192-900-010 Calendar quarter, 192-900-015 Employer, 192-900-020 Employer agent, 192-900-035 Terms meaning deliver, 192-910-005 Employer reporting requirements, 192-910-010 When are employer premium payments due?, 192-910-015 What are the employer's responsibilities for premium deductions?, 192-910-020 How are payments applied to long-term services and supports premiums?, and 192-920-005 Parties to collective bargaining agreements. RCW 50B.04.080 requires the department, to the extent feasible, to use the premium assessment collection, and reporting procedures required for PFML under Title 50A RCW.

The following rules are exempt under RCW 34.05.310 (4)(e) because the rules are dictated by statute (RCW 50B.04.090): WAC 192-900-030 Self-employed, 192-915-005 Election of coverage for self-employed persons, 192-915-010 What are reportable wages for self-employed persons electing coverage?, and 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage? RCW 50B.04.090 outlines requirements for self-employed individuals electing coverage under Title 50B.04 RCW and requires the department to adopt rules for determining the hours worked and the wages of individuals electing coverage.

June 2, 2021
April Amundson
Policy and Rules Manager
Leave and Care Division

Chapter 192-900 WAC

DEFINITIONS

NEW SECTION

WAC 192-900-005 Aggrieved party. An "aggrieved party" is any interested party who receives an adverse decision from:

- (1) The department for which the department has provided notice of appeal rights;
- (2) The office of administrative hearings; or
- (3) The commissioner's review office.

NEW SECTION

WAC 192-900-010 Calendar quarter. "Calendar quarter" has the meaning provided in WAC 192-500-020.

NEW SECTION

WAC 192-900-015 Employer. (1) An "employer" is:

(a) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this chapter;

(b) The state, state institutions, and state agencies;

(c) Any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision; and

(d) A franchisee.

(2) "Employer" does not include the United States of America.

(3) The term employer is used for both employer and employer agent.

(4) This section does not apply to:

(a) Any self-employed person or federally recognized tribe that has not elected coverage under Title 50B RCW; or

(b) Any person performing casual labor as defined in RCW 50A.05.010.

NEW SECTION

WAC 192-900-020 Employer agent. "Employer agent" has the meaning provided in WAC 192-500-015.

NEW SECTION

WAC 192-900-025 Interested parties. (1) In all determinations, cases, and appeals adjudicated by the employment security department under Title 50B RCW, the department is an "interested party."

(2) Other interested parties in determinations, cases, and appeals include:

(a) The employee or former employee; and

(b) An employer or former employer of that employee that is required to provide information to the department related to the determination or appeal in question.

(3) The department may designate an employee or employer as an interested party in other determinations made by the department.

NEW SECTION

WAC 192-900-030 Self-employed. A "self-employed" person has the meaning provided in WAC 192-500-170.

NEW SECTION

WAC 192-900-035 Terms meaning deliver. (1) Unless otherwise specified, the terms "mail," "provide," "file," "submit," and "send" are interchangeable and mean to properly transmit, deliver, or distribute:

(a) By email or other electronic services; or

(b) In another format approved by the department.

(2) This section does not apply to appeals filed under Title 50B RCW.

Chapter 192-910 WAC

ASSESSING AND COLLECTING PREMIUMS

NEW SECTION

WAC 192-910-005 Employer reporting requirements. Per RCW 50B.04.080, premium assessment, collection, and reporting procedures under Title 50B RCW must align with the procedures under Title 50A RCW to the extent feasible. The following reporting requirements under the paid family and medical leave program apply to the long-term services and supports trust program:

(1) WAC 192-510-025 What wages are reportable to the department for premium assessment purposes?

(2) WAC 192-540-030 What are employers required to report to the department?

(3) WAC 192-540-040 How should employers report hours for each calendar quarter?

(4) WAC 192-540-050 When are employers required to submit quarterly reports to the department?

NEW SECTION

WAC 192-910-010 When are employer premium payments due? (1) Premiums must be paid quarterly. Each payment must include the premiums owed on all wages subject to premiums during that calendar quarter. Payments are due to the department by the last day of the month following the end of the calendar quarter for which premiums are being paid.

(2) Payments made by mail are considered paid on the postmarked date. If the last day of the month falls on a Saturday, Sunday, or a legal holiday, the premium payment must be postmarked by the next business day.

(3) Premium payments are due within ten calendar days when a business is dissolved or the account is closed by the department.

NEW SECTION

WAC 192-910-015 What are the employer's responsibilities for premium deductions? (1) Employers must deduct premiums for each pay period in which the employee receives wages.

(2) When an employer is found by the department to be noncompliant with collecting premiums from an employee, the employer must file an amended report and pay the past due premiums.

(3) Subsection (1) of this section does not apply if:

(a) An employer was unable to deduct the premium for a pay period due to a lack of sufficient employee wages for that pay period; or

(b) The employee has an approved exemption under RCW 50B.04.085 and has provided the required proof of the exemption to the employer.

NEW SECTION

WAC 192-910-020 How are payments applied to long-term services and supports premiums? (1) A payment received with a premium assessment will be applied to the quarter for which the premium assessment applies. A payment exceeding the premiums due for that quarter will be applied to any other debt as provided in subsection (4) of this section.

(2) If no debt exists, premium overpayments of less than fifty dollars will be credited to future payments due.

(3) If no debt exists, premium overpayments of fifty dollars or more may be refunded to the employer at the employer's request. Otherwise, such overpayments will be credited to future payments due.

(4) Payments received will be applied in the following order of priority:

(a) Current quarter balance;

(b) Any previous quarter premium balance due starting with the oldest quarter;

(c) Then beginning with the oldest quarter in which a balance is owed.

Chapter 192-915 WAC**SELF-EMPLOYED PERSONS**NEW SECTION

WAC 192-915-005 Election of coverage for self-employed persons. (1) Self-employed persons as defined in RCW 50B.04.090 may elect coverage under Title 50B RCW.

(2) Coverage may only be elected beginning January 1, 2022, and before January 1, 2025, or within three years of becoming self-employed for the first time.

(3) Notice of election of coverage must be submitted to the department online or in another format approved by the department.

(4) Elective coverage begins on the first day of the quarter immediately following the notice of election.

(5) A self-employed person who elects coverage must continue to pay premiums until such time that the individual retires from the workforce or is no longer self-employed.

(6) The self-employed person must file a notice with the department if the individual retires from the workforce or is no longer self-employed.

NEW SECTION

WAC 192-915-010 What are reportable wages for self-employed persons electing coverage? Each quarter, self-employed individuals who elected coverage under Title 50B RCW will report wages as described in WAC 192-510-031.

NEW SECTION

WAC 192-915-015 How will the department determine the wages earned and hours worked for self-employed persons electing coverage? The department will determine the wages earned and hours worked for self-employed individuals as described in WAC 192-510-030.

Chapter 192-920 WAC**COLLECTIVE BARGAINING AGREEMENTS**NEW SECTION

WAC 192-920-005 Parties to collective bargaining agreements. (1) Parties to a collective bargaining agreement in existence on October 19, 2017, are not required to be subject to the rights and responsibilities under Title 50B RCW and related rules unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(2) Employers must inform the department immediately upon the reopening, renegotiation, or expiration of a collective bargaining agreement that was in effect prior to October 19, 2017.

(3) Employees not covered by a collective bargaining agreement are subject to the rights and responsibilities of Title 50B RCW and related rules. Employers are also subject to the rights and responsibilities of Title 50B RCW and related rules for employees not covered by a collective bargaining agreement, regardless of whether the employer is party to a collective bargaining agreement covering other employees.

(4) Employers party to multiple collective bargaining agreements among different bargaining units are subject to the rights and responsibilities of Title 50B RCW and related rules as they pertain to the bargaining units whose collective bargaining agreement is reopened or renegotiated by the parties or expires, on or after October 19, 2017.

(5) Parties to a collective bargaining agreement in existence on October 19, 2017, that has not been reopened or renegotiated by the parties or expired may elect to be subject to all applicable rights and responsibilities under Title 50B RCW and related rules prior to the expiration, reopening, or renegotiation of the agreement. Parties seeking to do so must submit to the department a memorandum of understanding, letter of agreement, or a similar document signed by all parties.

Chapter 192-925 WAC

APPEALS AND PROCEDURE

NEW SECTION

WAC 192-925-005 Adoption of model rules. The model rules of procedure contained in chapter 10-08 WAC, are, to the extent they are not inconsistent with the rules contained in this chapter, adopted as the rules of procedure for Title 50B RCW. The rules contained in this will, to the extent of any conflict with the model rules of procedure, be deemed to supersede the conflicting provisions of the model rules of procedure.

NEW SECTION

WAC 192-925-010 Who can appeal or submit a petition for review? (1) An aggrieved party as defined in WAC 192-900-005 may file an appeal to the department by using the department's online services, or in another format approved by the department.

(2) Any aggrieved party who receives a decision from the office of administrative hearings, other than an order approving a withdrawal of appeal, a consent order, or an interim order, may file a written petition for review, including filing by using the department's online services, or in another format approved by the department.

NEW SECTION

WAC 192-925-015 Sections of general procedural rules for appeal under chapter 192-800 WAC apply. Per RCW 50B.04.120, appeal procedures under Title 50B RCW must align with the appeal procedures under Title 50A RCW. The following general procedural rules for appeal under the paid family and medical leave program apply to the long-term services and supports trust program:

- (1) WAC 192-800-040 What are the timeliness requirements for submitting an appeal or a petition for review?
- (2) WAC 192-800-045 Can an appeal be withdrawn?
- (3) WAC 192-800-050 What happens after an appeal is submitted?
- (4) WAC 192-800-055 Who will be notified if an appeal is filed and what will it include?
- (5) WAC 192-800-060 What happens if an appeal or a petition has been filed and one of the parties has a change of contact information?
- (6) WAC 192-800-065 How does the time computation work for perfecting an appeal or petition for review?
- (7) WAC 192-800-070 Who can give testimony and examine witnesses during an appeal hearing?
- (8) WAC 192-800-075 Who can request a postponement of a hearing?
- (9) WAC 192-800-080 Will depositions and written discovery be permitted?
- (10) WAC 192-800-085 When will administrative law judges hear consolidated cases?
- (11) WAC 192-800-090 What is included in decisions issued by the office of administrative hearings?

(12) WAC 192-800-095 Can a decision of the commissioner incorporate a decision under review?

(13) WAC 192-800-100 What is the process for filing petition for review and any reply to the petition for review?

(14) WAC 192-800-105 When and how can an administrative law judge dispose of an appeal?

(15) WAC 192-800-110 What options are available for an aggrieved party who received an order of default?

(16) WAC 192-800-115 What is the process for filing a petition for reconsideration to the commissioner's review office?

(17) WAC 192-800-120 When would the commissioner not issue declaratory orders?

(18) WAC 192-800-125 When is a petition for review considered delivered to the department?

WSR 21-12-109

PROPOSED RULES

PARKS AND RECREATION

COMMISSION

[Filed June 2, 2021, 11:59 a.m.]

Continuance of WSR 21-06-077.

Preproposal statement of inquiry was filed as WSR 20-18-085.

Title of Rule and Other Identifying Information: Chapter 352-28 WAC, Protection and conservation of state park natural resources, the proposal would update and consolidate definitions and clarify the agency approval process for resource sales.

Hearing Location(s): On July 15, 2021, at 9:25 a.m., at Spokane House Interpretive Center, 13501 North Nine Mile Road, Nine Mile Falls, WA 99026.

Date of Intended Adoption: July 15, 2021.

Submit Written Comments to: Lisa Lantz, 1111 Israel Road S.W., Olympia, WA, email lisa.lantz@parks.wa.gov, fax 360-586-6647, by July 9, 2021.

Assistance for Persons with Disabilities: Contact Becki Ellison, phone 360-902-8502, fax 360-586-0355, TTY 711, email becki.ellison@parks.wa.gov, by July 6, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal would update definitions and consolidate them into WAC 352-28-005. It would also clarify the agency approval process for resource sales by setting new measures and thresholds for approval of sales based on volume, rather than value of timber. Current rule requires state parks and recreation commission approval for sales with an appraised value over \$25,000 and director approval under that threshold. The proposed rule would require state parks and recreation commission approval for timber sales over one million board-feet, director approval for sales between one million and five thousand board-feet, and program manager approval for sales five thousand board-feet or less. The proposal would also require state parks and recreation commission approval for timber sales, resulting from the conversion of forest land for the development of park facilities, where the appraised value of the timber is over \$25,000. The revision will clarify the

agency's internal approval process, but it is not anticipated to affect the overall number or quantity of resource sales.

Reasons Supporting Proposal: The current rule has definitions in multiple sections. In addition, the existing rule on resource sales, which uses a dollar threshold for determining the approval process for sales, can be interpreted in different ways. The proposal would transition to a volume threshold, which clarifies the approval process, is more consistent with other state resource agencies, and more accurately represents the scale and significance of forest health treatments.

Statutory Authority for Adoption: RCW 79A.05.070.

Statute Being Implemented: RCW 79A.05.035.

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

Name of Proponent: Washington state parks and recreation commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: David Cass, Olympia, 360-902-8606; Enforcement: Lisa Lantz, Olympia, 360-902-8641.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(a)(i) does not identify the Washington state parks and recreation commission as one of the agencies required to prepare a cost-benefit analysis.

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

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

June 2, 2021
Valeria Veasley
Management Analyst

AMENDATORY SECTION (Amending WSR 10-15-024, filed 7/12/10, effective 8/12/10)

WAC 352-28-005 Definitions. When used in this chapter the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

~~(1) ("Catastrophic forest event" means a natural or accidental devastation of major proportions that results in drastic alteration of the natural environment by, but not limited to, wind, fire, insect infestation, forest disease, flooding, or landslide.~~

~~(2))~~ "Commission" means the Washington state parks and recreation commission.

~~((3))~~ (2) "Conservation" means the professional management of the agency's natural resources to ensure their long-term presence, function and enjoyment by the public.

(3) "Cruise" means a forest survey to locate and estimate the quantity of timber on a given area according to species, size, quality, possible products, or other characteristics.

(4) "Director" means the director of the Washington state parks and recreation commission.

(5) "Emergency tree" means any tree that has already failed, or that poses an imminent or probable likelihood of

failure before the next inspection, based on the judgment of a professional forester, certified arborist, or staff member trained in tree risk rating and abatement techniques approved by the agency, and which due to its location, could impact a target.

(6) "Endangered species" means each plant, fungus and lichen species identified as endangered on the list of such species prepared by the department of natural resources Washington natural heritage program and each wildlife species identified as endangered by the Washington department of fish and wildlife in WAC ((232-12-014)) 220-610-010.

~~((6))~~ (7) "Natural resource(s)" includes biological organisms, their processes, dead or organic matter, soils, and geologic materials.

~~((7))~~ (8) "Resource conservation plan" means a plan that advances the stewardship of that resource. The plan may address, although not be limited to, resource conservation, protection, restoration or mitigation.

~~((8))~~ (9) "Sensitive species" means each plant, fungus and lichen species identified as sensitive on the list of such species prepared by the department of natural resources Washington natural heritage program and each wildlife species identified as sensitive on the list of such species prepared by the Washington department of fish and wildlife.

~~((9))~~ (10) "Significant tree" means living and dead standing trees greater than 10 inches in diameter at breast height (4.5 feet above the ground).

(11) "Target" means a structure, facility, property, activity, or person that has the potential to be hit or impacted by a falling tree or tree part.

(12) "Threatened species" means each plant, fungus and lichen species identified as threatened on the list of such species prepared by the department of natural resources Washington natural heritage program and each wildlife species identified as threatened on the list of such species prepared by the Washington department of fish and wildlife.

(13) "Timber" means forest trees of commercial value.

AMENDATORY SECTION (Amending WSR 10-15-024, filed 7/12/10, effective 8/12/10)

WAC 352-28-010 Cutting, collection and removal of natural resources. (1) **Trees may be cut and removed subject to the following limitations:**

(a) **Significant trees:** ~~((Significant trees means living and dead standing trees > 10 inches in diameter at breast height (4.5 feet above the ground).))~~ Except in emergencies and when feasible, significant trees in any area under the jurisdiction and/or management of the commission shall be removed only after they have been evaluated, rated, appraised and marked by a professional forester, certified arborist, or staff member trained in agency-approved tree risk rating and abatement techniques. In addition, except where deemed an emergency tree, or in the event of wildfire, weather, or other natural emergencies, significant trees can be cut or removed only after compliance with (d) of this subsection and subsection (4) of this section, agency review through the tree activity worksheet process and upon the written approval of the director or the designee of the director.

(b) **Emergency trees:** (~~Emergency trees means any tree that has already failed (cracked, tipped, diseased, or standing dead) or that poses an imminent threat, based on the judgment of a professional forester, certified arborist, or staff member trained in tree risk rating and abatement techniques approved by the agency, and which due to its location, poses an imminent threat to a target. Imminent means likely to occur at any moment, and target means a structure, facility, or person that has the potential to be hit or impacted by a falling tree or tree part.~~) The park manager or designee trained in tree risk rating and abatement techniques as prescribed by the agency forester or (~~arboriculture manager~~) certified arborist is authorized to immediately close the target area, and where the target cannot be relocated, cut or remove the emergency tree.

(c) **Worksheet:** The cutting or removal of any significant trees in landscapes classified recreation, heritage, or resource recreation by the commission shall, except in the case of emergency trees, occur only after agency review through the tree activity worksheet process and the written approval of the director or designee.

(d) **Consultation:** The cutting or removal of any significant trees in a natural area, natural forest area or natural area preserve shall, except in the case of emergency trees, be approved only by the director or designee and only after consultation with the Washington department of fish and wildlife and the department of natural resources Washington natural heritage program, the preparation of a resource conservation plan for affected natural resources, and a public hearing (~~on each such proposed cutting or removal conducted~~) in the county/counties in which the cutting or removal is to take place (~~as determined by the director. Prior notice of a hearing shall be published in a newspaper of general circulation in such county or by an alternative method prescribed by the commission deemed to yield equal or better public notice. Any person who requests notification of such proposed cutting or removal shall be sent prior notice of a hearing. A summary of the testimony presented at a hearing or received in writing shall be presented to the director~~).

(2) **Native plants, fungi, and dead organic matter:** The cutting or removal of natural resources, other than trees or those specified in WAC 352-32-350, 352-28-030 and 352-28-040, will only occur as a part of a resource conservation plan approved by the director or designee.

(3) **Protected species:** Natural resources may be cut and/or removed from areas supporting protected species, or for the purposes of enhancing habitat for protected species, under the following conditions:

(a) The cutting or removal of natural resources in any area known to be inhabited by endangered, threatened, or sensitive species shall, except in emergencies as defined in subsection (1)(b) of this section, follow requirements of the department of fish and wildlife and of the department of natural resources Washington natural heritage program and be approved only by the director or designee after consultation with those agencies, and the preparation of a mitigation plan for affected species.

(b) The cutting or removal of natural resources to enhance the habitat of a sensitive, threatened, or endangered species as defined in WAC 352-28-005, on lands managed by

the commission or on other state lands, will only occur as a part of an interagency agreement or resource conservation plan that involves consultation with the Washington department of fish and wildlife, department of natural resources Washington natural heritage program, and as appropriate, other agencies and groups with expertise with these species, and is approved by the director or designee.

(4) **Land classification (chapter 352-16 WAC) criteria:** Natural resources may be cut and/or removed from the areas listed below for the following reasons only:

(a) Natural area preserves:

(i) Maintenance or construction of service roads, boundary fences, or trails, or modification of conditions only as may be required, and only where necessary, to meet park management goals and mitigated in a resource conservation plan that involves consultation with the department of natural resources Washington natural heritage program, and as appropriate other agencies and is approved by the director or the designee of the director.

(ii) Maintain or restore a native plant community, species population, or ecological process as specified in a natural area preserve management plan prepared in consultation with the department of natural resources Washington natural heritage program.

(iii) Correction of conditions hazardous to persons, properties, and/or facilities on or adjacent to park land.

(iv) Control of diseases and insect infestations where adjacent lands are severely jeopardized or where a drastic alteration of the natural environment is expected to occur, after consultation with the department of natural resources Washington natural heritage program and other agencies and groups with expertise in ecosystem health as deemed appropriate by the director.

(v) Prevent the deterioration or loss of or facilitate the restoration of historical/cultural resources.

(vi) Maintenance or construction of fire lanes for abatement of fires.

(vii) Collection of specimens as specified in WAC 352-28-040, including consultation with the department of natural resources Washington natural heritage program.

(b) Natural areas and natural forest areas:

(i) Maintenance or construction of boundary fences, trails, trail structures, trail head facilities, interpretive sites, utility easements, or service roads only as may be required, and only where absolutely necessary to meet park management goals and mitigated in a resource conservation plan that involves consultation with the department of natural resources Washington natural heritage program, and as appropriate other agencies and is approved by the director or the designee of the director.

(ii) Maintain or restore a native plant community, species population, or ecological process as specified in a natural resource conservation plan prepared in consultation with the department of natural resources Washington natural heritage program, and as appropriate other agencies.

(iii) Correction of conditions hazardous to persons, properties, and/or facilities on or adjacent to park land.

(iv) Control of diseases and insect infestations where adjacent lands are severely jeopardized or where a drastic alteration of the natural environment is expected to occur,

after consultation with the department of natural resources Washington natural heritage program and other agencies and groups with expertise in ecosystem health as deemed appropriate by the director or the designee of the director.

(v) Prevent the deterioration or loss of or facilitate the restoration of historical/cultural resources.

(vi) Maintenance or construction of fire lanes for abatement of fires.

(vii) Collection of edibles as specified in WAC 352-28-030 or specimens as specified in WAC 352-28-040.

(c) Recreation areas, resource recreation areas, and heritage areas:

(i) Area clearing necessary for park maintenance, and/or park development projects for day use and overnight recreation facilities, road and utility easements, and administrative facilities.

(ii) Correction of conditions hazardous to persons, properties, and/or facilities on or adjacent to park land.

(iii) Cleanup of trees fallen, tipped, or damaged by the weather, fire, or other natural causes where they directly interfere with park management activities.

(iv) Creation of diverse native trees and other plants, coarse woody debris, and fungi sizes, ages, and species to achieve visual aspects that resemble a formal landscape, natural or historical setting, or to improve wildlife habitat.

(v) Maintenance or creation of a regenerating natural environment that will sustain low ground cover, shrubs, and understory and overstory trees to provide screening, wind, and sun protection.

(vi) Control of diseases and insect infestations where adjacent lands are severely jeopardized or where a drastic alteration of the natural environment is expected to occur.

(vii) Prevent the deterioration or loss of historical/cultural resources.

(viii) Maintenance or construction of fire lanes for abatement of fires.

(ix) Modification of conditions to maintain or restore a desired plant community, species population, or ecological process.

(x) Collection of edibles as specified in WAC 352-28-030 or specimens as specified in WAC 352-28-040.

(5) **Use of fallen trees:** When feasible, fallen trees shall be left on the ground when deemed environmentally beneficial or used for park purposes such as, but not limited to, approved building projects, trail mulching, and firewood, or where the tree has no economic values contributed to a state managed resource conservation effort. In natural area preserves, natural forest areas, natural areas, and resource recreation areas first consideration shall be given to leaving trees on the ground for natural purposes.

(6) **Parks use:** Subject to the guidelines of this section, the commission may authorize the use of natural resources within recreation areas, resource recreation areas, and heritage areas for park purposes.

AMENDATORY SECTION (Amending WSR 10-15-024, filed 7/12/10, effective 8/12/10)

WAC 352-28-020 Resource sales and leases. The following qualifications, procedures, and general provisions

pertain to the sale of natural resources from commission owned or managed lands:

(1) Subject to the limitations set forth under WAC 352-28-010(4), the sale of natural resources will be undertaken only where they advance a commission approved development, are part of a resource conservation plan or interagency agreement approved by the director or designee, or are deemed by the director or designee to advance agency stewardship goals and are surplus to the ~~((parks))~~ park's needs.

(2) Prior to a sale of natural resources, qualified park personnel or their designated agent shall conduct an inventory or cruise of the materials, appraise the value of such materials, and establish a minimum acceptable bid, unless such natural resources are for use by the park or qualify for direct sale under subsection ~~((4))~~ (5) of this section.

Where ~~((trees are))~~ timber is to be sold, such ~~((trees))~~ timber shall be cruised or appraised using methods consistent with those applied by the Washington department of natural resources or other applicable professional standards of forest land and timber appraisal. Complete records of the methods and assumptions used to make the cruise or timber appraisal and estimated minimum acceptable bids shall be maintained.

(3) Sales of timber where the ~~((appraised value))~~ cruised volume of the ~~((materials))~~ timber is in excess of ~~((twenty-five thousand dollars))~~ one million board-feet shall require approval by a majority of the commission.

(4) Sales of timber where the ~~((appraised value))~~ cruised volume of the ~~((materials))~~ timber is less than or equal to ~~((twenty-five thousand dollars))~~ one million board-feet and greater than five thousand board-feet shall require approval by the director or designee. The director may defer to approval by a majority of the commission.

(5) Sales of timber where the cruised volume of timber is less than or equal to five thousand board-feet shall require approval by the natural resources program manager.

(6) Sales of timber resulting from the conversion of forest land for the development of park facilities where the appraised value of the timber removed is in excess of twenty-five thousand dollars shall require approval by a majority of the commission.

(7) Sales of natural resources other than timber where the appraised value is in excess of twenty-five thousand dollars shall require approval by a majority of the commission.

(8) All sales shall be conducted pursuant to procedures approved by the commission.