

WSR 21-17-011
EXPEDITED RULES
DEPARTMENT OF
ENTERPRISE SERVICES

[Filed August 5, 2021, 8:29 a.m.]

Title of Rule and Other Identifying Information: WAC 200-380-030 Agency requirements.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to remove the annual print management strategy reporting requirement on state agencies, boards and commissions, and higher education institutions.

Reasons Supporting Proposal: In 2016, the department of enterprise services (DES) put in place chapter 200-380 WAC in response to state law, which aims to improve efficiency and minimize costs associated with agency-based printing. While statutory rule-making requirements on DES do not address reporting, reporting to DES was an important aspect of initial implementation of the statute, including helping DES identify how to best support agencies' implementation efforts.

Now that initial implementation of RCW 43.19.742 has completed, removing the reporting requirement reduces redundancy and frees up state resources better committed to the legislature's goals to increase efficiencies and reduce costs.

Statutory Authority for Adoption: RCW 43.19.742 Agency management of print operations—Department rules and guidelines.

Statute Being Implemented: RCW 43.19.742 Agency management of print operations—Department rules and guidelines.

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

Name of Proponent: DES, governmental.

Name of Agency Personnel Responsible for Drafting: Jack Zeigler, 1500 Jefferson [Street S.E.], Olympia, WA, 360-407-9209; Implementation: Jason Bippert, 7580 New Market Street S.W., Tumwater, [WA], 360-664-4332; and Enforcement: MariJane Kirk, 1500 Jefferson [Street S.E.], Olympia, WA, 360-407-9392.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Statutory rule-making requirements on DES do not address reporting. DES and other interested stakeholders determined an annual print management strategy reporting requirement was an important aspect of initial implementation of the statute, including helping DES identify how to best support agencies' implementation efforts.

Now that initial implementation of RCW 43.19.742 has completed, removing the reporting requirement reduces redundancy and frees up state resources better committed to the legislature's goals to increase efficiencies and reduce costs.

Agencies are encouraged to continue to track, manage and reduce their agency-based printing costs, and have the information available to provide upon request to the governor, the office of financial management, the state auditor or the legislature. DES remains available to discuss this topic and other print related topics and provide support as needed.

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

Relates only to internal governmental operations that are not subject to violation by a person.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This rule applies only to governmental actions of state agencies, boards and commissions, and higher education institutions.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jack Zeigler, DES, 1500 Jefferson [Street S.E.], Olympia, WA 98501, phone 360-407-9209, email jack.zeigler@des.wa.gov, AND RECEIVED BY October 18, 2021.

August 4, 2021

Jack Zeigler

Rules and Policy Manager

AMENDATORY SECTION (Amending WSR 15-12-099, filed 6/2/15, effective 8/24/15)

WAC 200-380-030 Agency requirements. In order to fully implement the requirements of this chapter:

(1) Agencies must adopt agency wide policies, standards and procedures governing the management of their print operations.

(2) Agencies must determine baseline print costs using life cycle cost analysis as defined by RCW 39.26.010(15). Where applicable, agencies must include the costs of equipment relocation and redeployment.

~~((3) Agencies must annually submit an agency print management strategy report to the department.))~~

WSR 21-17-041
EXPEDITED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed August 9, 2021, 3:19 p.m.]

Title of Rule and Other Identifying Information: WAC 357-31-325 When must an employer grant leave with pay for other miscellaneous reasons? and 357-31-326 When may an employer grant leave with pay?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This filing repeals WAC 357-31-325(5) to remove the requirement for a general government employer to grant leave with pay (LWP) when an employee is required by Centers of [for] Disease Control and Prevention (CDC) guidelines to self-quarantine due to

the novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested for COVID-19 and the employer has determined the employee does not have the option to telework. It also repeals WAC 357-31-326(4) to remove the option for higher education employers to grant LWP when an employee is required by CDC guidelines to self-quarantine due to COVID-19, but is otherwise healthy and has not tested for COVID-19 and the employer has determined the employee does not have the option to telework.

Reasons Supporting Proposal: To align chapter 357-31 WAC with the progression of the COVID-19 response resulting from a change in circumstances including increased availability of testing and vaccine along with updated CDC requirements/guidelines for preventing the spread of COVID-19. Based on the updated guidelines and the availability and effectiveness of the COVID-19 vaccine, leave with pay is no longer needed for individuals to self-quarantine.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: Chapter 41.06 RCW.

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

Name of Proponent: Office of financial management (OFM), state human resources, governmental.

Name of Agency Personnel Responsible for Drafting: Caroline Kirk, 128 10th Avenue S.W., Olympia, WA 98501, 360-878-4827; Implementation and Enforcement: Brandy Chinn, 128 10th Avenue S.W., Olympia, WA 98501, 360-878-2901.

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

The rule is no longer necessary because of changed circumstances.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The rule change is based on a change of circumstances.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Roselyn Marcus, OFM, P.O. Box 43113, Olympia, WA 98504-3113, phone 360-902-0434, email Roselyn.Marcus@ofm.wa.gov, AND RECEIVED BY October 18, 2021.

August 9, 2021

Roselyn Marcus

Assistant Director

of Legal and Legislative Affairs

AMENDATORY SECTION (Amending WSR 21-12-020, filed 5/24/21, effective 7/1/21)

WAC 357-31-325 When must an employer grant leave with pay for other miscellaneous reasons? Leave with pay **must** be granted to an employee in accordance with WAC 357-31-320 and for the following reasons:

(1) To allow an employee to receive assessment from the employee assistance program.

(2) When an employee is scheduled to take an examination or participate in an interview for a position with a state employer during scheduled work hours.

(a) Employers may limit the number of occurrences or the total amount of paid leave that will be granted to an employee to participate in an interview or take an examination during scheduled work hours.

(b) Employers may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.

(3) When an employee is required to appear during working hours for a physical examination to determine physical fitness for military service.

(4) To allow a general government employee to take paid leave, not to exceed thirty days in a two-year period to participate in life-giving procedures, such as medical procedures, including testing, sampling, or donation of organs, tissues, and other body components for the purpose of donation, without compensation. For this subsection blood or plasma donations are not considered life-giving procedures.

(a) General government employers may take operational necessity into account and require the employee to provide reasonable advance notice.

(b) Employees must provide written proof from an accredited medical institution, physician, or other medical professional that the employee will or has participated in a life-giving procedure.

~~(5) ((When a general government employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.~~

~~(6))~~ To allow a general government employee to take a reasonable amount of leave with pay for the employee to travel and receive each dose of COVID-19 immunization if the vaccine is not offered at the workplace. An employer may

authorize leave in excess of one day in extraordinary circumstances, such as to accommodate travel where the vaccine is unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.

AMENDATORY SECTION (Amending WSR 21-12-020, filed 5/24/21, effective 7/1/21)

WAC 357-31-326 When may an employer grant leave with pay? (1) A general government employer may grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, or donating blood. Leave granted to participate in blood and plasma donations must not exceed five days in a two-year period.

(2) A higher education employer may grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, participating in life-giving procedures, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(3) In the department of natural resources, leave with pay equivalent to one regular workshift may be allowed for the purpose of rest and recuperation after ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant one additional day of leave with pay for rest and recuperation after twenty-one consecutive calendar days performing emergency work under an incident command system.

~~(4) ((When a higher education employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.~~

~~(5))~~ (5) A general government employer may grant a reasonable amount of leave with pay for an employee to receive each dose of COVID-19 immunization if the vaccine is

offered at the workplace. An employer may authorize leave in excess of one day for receipt of the vaccine in extraordinary circumstances, such as to accommodate travel where the vaccine is unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.

~~((6))~~ (5) A higher education employer may grant a reasonable amount of leave with pay for an employee to receive each dose of COVID-19 immunization if the vaccine is not offered at the workplace. An employer may authorize leave in excess of one day for receipt of the vaccine in extraordinary circumstances, such as to accommodate travel where the vaccine is unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.

WSR 21-17-077

EXPEDITED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed August 12, 2021, 2:46 p.m.]

Title of Rule and Other Identifying Information: WAC 388-113-0020 Which criminal convictions and pending charges automatically disqualify an individual from having unsupervised access to adults or minors who are receiving services in a program under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, and 388-107 WAC?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is implementing changes to WAC 388-113-0020 related to the passage of SHB 1411 passed in the 2021 legislative session. The effective date of the bill was July 25, 2021. The rule is currently in effect by emergency adoption under WSR 21-16-068.

The bill adds limitations to certain crimes which were previously permanently disqualifying: Assault 2, Assault 3, Delivery of marijuana, Extortion 2, Theft 1, and Robbery 2; and adds a provision which removes the automatic disqualification, allowing for a character competence and suitability review, for a crime listed which is accompanied by a court issued Certificate of Restoration of Opportunity (CROP). Domestic violence (felonies only) was removed from the list of automatically disqualifying crimes because by law this is

an aggravator added to another crime, not a stand-alone [stand-alone] crime.

Reasons Supporting Proposal: To preserve and expand the workforce of long-term care workers by balancing client choice and safety. These changes remove criminal history related barriers to employment for individuals working for or intending to work for vulnerable persons while maintaining the statutory requirement of character, competence and suitability determination.

Statutory Authority for Adoption: RCW 74.08.090, 43.43.842, 74.39A.056.

Statute Being Implemented: RCW 74.08.090, 43.43.842, 74.39A.056.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Stacy Graff, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2533.

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

Content is explicitly and specifically dictated by statute.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The passage of SHB 1411 is effective as of July 25, 2021, so the current rule is out of compliance with the statute.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY 5:00 p.m. on October 19, 2021.

August 12, 2021
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-08-066, filed 4/2/18, effective 5/3/18)

WAC 388-113-0020 Which criminal convictions and pending charges automatically disqualify an individual from having unsupervised access to adults or minors who are receiving services in a program under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, and 388-107 WAC? (1) Individuals who must satisfy background checks requirements under chapters 388-71, 388-101, 388-106, 388-76, 388-78A, 388-97, 388-825, and 388-107 WAC must not work in a position that may involve unsuper-

vised access to minors or vulnerable adults if the individual has been convicted of or has a pending charge for any of the following crimes:

- (a) Abandonment of a child;
- (b) Abandonment of a dependent person;
- (c) Abuse or neglect of a child;
- (d) Arson 1;
- (e) Assault 1;
- (f) Assault 2 (less than five years);
- (g) Assault 3 (less than five years);
- (h) Assault 4/simple assault (less than three years);
- (i) Assault 4 domestic violence felony;
- (j) Assault of a child;
- (k) Burglary 1;
- (l) Child buying or selling;
- (m) Child molestation;
- (n) Coercion (less than five years);
- (o) Commercial sexual abuse of a minor/patronizing a juvenile prostitute;
- (p) Communication with a minor for immoral purposes;
- (q) Controlled substance homicide;
- (r) Criminal mistreatment;
- (s) Custodial assault;
- (t) Custodial interference;
- (u) Custodial sexual misconduct;
- (v) Dealing in depictions of minor engaged in (~~sexual~~) sexually explicit conduct;
- (w) (~~Domestic violence (felonies only)~~);
- (~~x~~) Drive-by shooting;
- (~~yy~~) (x) Drug crimes(~~, if they involve~~) involving one or more of the following:
 - (i) (~~Manufacture of~~) Manufacturing or possession with the intent to manufacture a drug;
 - (ii) Delivery (~~or~~) or possession with the intent to deliver a drug other than marijuana;
 - (iii) (~~Possession of a drug with the intent to manufacture or deliver~~) Delivery of marijuana (less than three years).
- (~~z~~) (y) Endangerment with a controlled substance;
- (~~aa~~) (z) Extortion 1;
- (aa) Extortion 2 (less than five years);
- (~~bb~~) (bb) Forgery (less than five years);
- (~~cc~~) (cc) Homicide by abuse, watercraft, vehicular homicide (negligent homicide);
- (~~dd~~) (dd) Identity theft (less than five years);
- (~~ee~~) (ee) Incendiary devices (possess, manufacture, dispose);
- (~~ff~~) (ff) Incest;
- (~~gg~~) (gg) Indecent exposure/public indecency (felony);
- (~~hh~~) (hh) Indecent liberties;
- (~~ii~~) (ii) Kidnapping;
- (~~jj~~) (jj) Luring;
- (~~kk~~) (kk) Malicious explosion 1;
- (~~ll~~) (ll) Malicious explosion 2;
- (~~mm~~) (mm) Malicious harassment;
- (~~nn~~) (nn) Malicious placement of an explosive 1;
- (~~oo~~) (oo) Malicious placement of an explosive 2 (less than five years);
- (~~pp~~) (pp) Malicious placement of imitation device 1 (less than five years);

~~((qq))~~ (qq) Manslaughter;
~~((rr))~~ (rr) Murder/aggravated murder;
~~((ss))~~ (ss) Possess depictions minor engaged in sexual conduct;
~~((tt))~~ (tt) Promoting pornography;
~~((uu))~~ (uu) Promoting prostitution 1;
~~((vv))~~ (vv) Promoting suicide attempt (less than five years);
~~((ww))~~ (ww) Prostitution (less than three years);
~~((xx))~~ (xx) Rape;
~~((yy))~~ (yy) Rape of child;
~~((zz))~~ (zz) Residential burglary;
~~((aaa))~~ (aaa) Robbery 1;
~~((bbb))~~ (bbb) Robbery 2 (less than five years);
~~((ccc))~~ (ccc) Selling or distributing erotic material to a minor;
~~((ddd))~~ (ddd) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
~~((eee))~~ (eee) Sexual exploitation of minors;
~~((fff))~~ (fff) Sexual misconduct with a minor;
~~((ggg))~~ (ggg) Sexually violating human remains;
~~((hhh))~~ (hhh) Stalking (less than five years);
~~((iii))~~ (iii) Theft 1 (less than ten years);
~~((iii))~~ (iii) Theft from a vulnerable adult 1;
~~((iii))~~ (iii) Theft from a vulnerable adult 2 (less than ten years);
~~((kkk))~~ (kkk) Theft 2 (less than five years);
~~((lll))~~ (lll) Theft from a vulnerable adult 2 (less than ten years);
~~((mmm))~~ (mmm) Theft 3 (less than three years);
~~((nnn))~~ (nnn) Unlawful imprisonment;
~~((ooo))~~ (ooo) Unlawful use of building for drug purposes (less than five years);
~~((ooo))~~ (ooo) Use of machine gun in a felony;
~~((ppp))~~ (ppp) Vehicular assault;
~~((qqq))~~ (qqq) Violation of temporary restraining order or preliminary injunction involving sexual or physical abuse to a child;
~~((rrr))~~ (rrr) Violation of a temporary or permanent vulnerable adult protection order (VAPO) that was based upon abandonment, abuse, financial exploitation, or neglect; and
~~((sss))~~ (sss) Voyeurism.
 (2) If "(less than ten years)," "(less than five years)," or "(less than three years)" appears after a crime listed in subsection (1) of this section, the individual is not automatically disqualified if the required number of years has passed since the date of the conviction. This will result in a letter from the background check central unit indicating a character, competence, and suitability review is required before allowing unsupervised access to children or vulnerable adults. This provision applies to convictions that the department has determined under subsection (3) of this section as equivalent to a crime listed in subsection (1) of this section once the period of time listed in subsection (1) of this section has passed.
 (3) When the department determines that a conviction or pending charge in federal court or in any other court, including state court is equivalent to a Washington state crime that is disqualifying under this section, the equivalent conviction or pending charge is also disqualifying.

(4) In instances where a court has issued a certificate of restoration of opportunity of one of the crimes listed above, according to the procedure in RCW 9.97.020, the conviction is not automatically disqualifying but is subject to a character, competence, and suitability review.

WSR 21-17-112

EXPEDITED RULES

HIGHLINE COLLEGE

[Filed August 16, 2021, 3:23 p.m.]

Title of Rule and Other Identifying Information: Grievance procedures—Title IX—Handicapped, chapter 132I-300 WAC; WAC 132I-300-010 and 132I-300-020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Repeal the above mentioned chapter. On May 19, 2020, the Federal Register printed amendments to Title IX regulations (85 F.R. 30575). The new regulations address the grievance process for formal complaints of sexual harassment and became effective on August 14, 2020. In order for the college's Title IX policy and procedures to be compliant with federal regulations, we request the permanent repeal of WAC that addresses Title IX. The language in WAC no longer aligns with the new regulations.

Reasons Supporting Proposal: Highline College has adopted/updated Title IX policy and procedures locally. This change will allow the college to respond quickly to revisions to federal policy. Also, as the attorney general's office adapts their model rules, we will update local policy and procedures to follow the attorney general's guidance.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140(13); 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.

Statute Being Implemented: Not applicable.

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

Name of Proponent: [No information supplied], public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Summer Korst, 23835 Pacific Highway South, Kent, WA 206-592-3374.

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

Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The college has gone through the formal and required formal rule-making process. When our CR-103 was filed with the OTS document, the two did not align. While our CR-103 form requested a repeal, the OTS document provided changes to the policy and procedure that were adopted locally. This administrative error led to chapter 132I-300 WAC being updated, rather than repealed. Our intent is to request a repeal.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Summer Korst, Highline College, 23835 Pacific Highway South, Kent, WA 98198, phone 206-592-3374, fax 206-870-3773, email skorst@highline.edu, AND RECEIVED BY October 29, 2021.

August 11, 2021
Summer Korst
Executive Director
of Human Resources

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 132I-300-010 Statement of policy.
WAC 132I-300-020 Discrimination and sexual harassment complaints—Procedure.

WSR 21-17-128
EXPEDITED RULES
OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2021-21—Filed August 17, 2021,
2:29 p.m.]

Title of Rule and Other Identifying Information: Technical amendment to WAC 284-43-8130 Association health plan compliance with statutory or regulatory changes.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The existing language in WAC 284-43-8130 includes an outdated reference to a WAC section that was recodified, so that reference needs to be replaced with the updated WAC section number.

Reasons Supporting Proposal: The updated section number has already been indicated within brackets, directly following the outdated reference, in the existing text of WAC 284-43-8130. Rule making is needed to remove the outdated reference and officially replace it with the updated number.

Statutory Authority for Adoption: RCW 48.02.060.

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

Name of Proponent: Office of the insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Shari Maier, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7173; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7117; and Enforcement: Melanie Anderson and Charles Malone, P.O.

Box 40255, Olympia, WA 98504-0255, 360-725-7214 and 360-725-7050.

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

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: This rule making only involves updating a reference to another WAC section, which is a clarification of the rule that will not change its effect.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Shari Maier, Office of the Insurance Commissioner, 302 Sid Snyder Avenue S.W., Olympia, WA 98501, phone 360-725-7173, fax 360-586-3109, email rulescoordinator@oic.wa.gov, AND RECEIVED BY October 18, 2021.

August 17, 2021
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 19-22-032, filed 10/30/19, effective 11/30/19)

WAC 284-43-8130 Association health plan compliance with statutory or regulatory changes. (1) Issuers must file a group health plan, other than a small group health plan, rate and form filing as provided in RCW 48.43.733. An issuer offering plans through an association or member-governed group must implement all new applicable federal or state health plan market requirements when they become effective. Replacement requirements for this section apply based on whether the purchaser is classified as an individual, small group, or large group purchaser. These requirements also apply to employer member groups of less than two or to individual member purchasers.

(2) An issuer providing plans of the type referenced in subsection (1) of this section must discontinue a noncompliant plan, and offer replacement plans effective on the renewal date of the master group contract for large groups, and on the group's anniversary renewal date for nongrandfathered small group and individual plans.

(3) If the association is a large group as defined in WAC ((284-43-0330(1) [284-43-8140(1)])) 284-43-8140(1), the same renewal date must apply to all employer members and individual employer members, and the replacement coverage must take effect on the same date for each participant. The purchaser's anniversary date must not be used in lieu of this

uniform renewal date for purposes of discontinuation and replacement of noncompliant coverage.

(4) If the association is not a large group as defined in WAC ((~~284-43-0330(1)~~ [~~284-43-8140(1)~~]) 284-43-8140(1)), and the master group contract and an employer member's contract do not have the same renewal date, an issuer must provide notice of the discontinuation and replacement of the plan to the affected employer member or plan sponsor, and each enrollee in the affected employer member plan, not fewer than ninety days prior to the employer member's anniversary renewal date.

(5) If an issuer does not have a replacement plan approved by the commissioner to offer in place of a discontinued plan, the issuer must assist each enrollee in identifying a replacement option offered by another issuer.

(6) For purposes of this section, "purchaser" means the group or individual whose eligibility for the plan is based in whole or in part on membership in the association or member-governed group.

(7) For purposes of this section, the "anniversary renewal date" means the initial or first date on which a purchasing group's health benefit plan coverage became effective with the issuer, regardless of whether the issuer is subject to other agreements, contracts or trust documents that establish requirements related to the purchaser's coverage in addition to the health benefit plan.

(8) An issuer must not adjust the master contract renewal or anniversary date to delay or prevent application of any federal or state health plan market requirement.