

WSR 22-22-050
EXPEDITED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2022-08—Filed October 27, 2022, 10:28 a.m.]

Title of Rule and Other Identifying Information: Removing language concerning prohibiting use of credit history.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On February 1, 2022, the insurance commissioner filed Insurance Commissioner Matter R 2021-07 (as filed in WSR 22-040-090), which prohibits insurers' use of consumers' credit histories to determine personal insurance rates, premiums, or eligibility for coverage for all homeowners, renters, and private passenger automobile insurance for a period lasting until three years following the day the national emergency concerning the outbreak of COVID-19 declared by the president on March 13, 2020, terminates, or until three years after the day the Governor's Proclamation 20-05 declaring a state of emergency throughout the state of Washington as a result of the COVID-19 outbreak expires, whichever is later. The R 2021-07 rule making adopted WAC 284-24A-090 and amended WAC 284-24A-050.

Two insurance trade associations filed lawsuits seeking declaratory and injunctive relief with respect to the R 2021-07 rule making. During the pendency of the litigation, the insurance commissioner agreed to stay implementation of the rule.

On August 29, 2022, the Thurston County Superior Court issued an order invalidating the rule in Insurance Commissioner Matter R 2021-07.

The purpose of this rule proposal is to effectuate the court's ruling. This rule proposal will repeal WAC 284-24A-090 and amend WAC 284-24A-050, restoring the language to its state prior to the R 2021-07 rule making.

There are no anticipated effects due to the changes to existing rules, as the R 2021-07 rule making was never implemented and the court's ruling has already taken effect. The proposed rule seeks to align regulatory language with the court's ruling.

Reasons Supporting Proposal: Currently, there is conflict between invalidation of the R 2021-07 rule making by a Thurston County superior court order and the language that is in the two sections that were affected by that R 2021-07 rule making (WAC 284-24A-050 and 284-24A-090). This rule proposal will provide clarity to the public on those sections.

Statutory Authority for Adoption: RCW 48.02.060(3).

Rule is necessary because of state court decision, *Nat'l Ass'n of Mut. Ins. Co., et al. v. State of Washington*, Order Granting in Part Petition for Declaratory Relief, Docket No. 22-2-00180-34 (consolidated) (Thurston Co. Sup. Ct., 2022).

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Andrew Davis, Insurance Building (Capitol Campus), 360-725-7170; Implementation: Molly Nollette, 5000 Building (Tumwater), 360-725-7117; and Enforcement: Charles Malone, 5000 Building (Tumwater), 360-725-7050.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

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.

The rule is no longer necessary because of changed circumstances.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited adoption of WAC 284-24A-050 is appropriate because the changes that are being made are clarifying the language in the section without changing its effect. A court invalidated Insurance Commissioner Matter R 2021-07 (WSR 22-04-090); the changes made to this section are in line with the court ruling and will restore the section to its state prior to the R 2021-07 rule making.

Expedited repeal of WAC 284-24A-090 is appropriate because circumstances have changed such that the section is no longer necessary. A court invalidated Insurance Commissioner Matter R 2021-07 (WSR 22-04-090); that rule making adopted WAC 284-24A-090. The language in the section is no longer valid and therefore no longer necessary.

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 Andrew Davis, Office of the Insurance Commissioner, 302 Sid Snyder Avenue S.W., Olympia, WA 98504, phone 360-725-7036, fax 360-586-3109, email rulescoordinator@oic.wa.gov, www.insurance.wa.gov, AND RECEIVED BY January 3, 2023.

October 27, 2022

Mike Kreidler

Insurance Commissioner

OTS-4147.3

AMENDATORY SECTION (Amending WSR 22-04-090, filed 2/1/22, effective 3/4/22)

WAC 284-24A-050 What types of information must an insurer include in a multivariate analysis? (1) A multivariate statistical analysis must evaluate the rating factors listed below (if applicable to the rating plan, and to the extent that data are credible):

(a) For homeowners, dwelling property, earthquake, and personal inland marine insurance:

- (i) Insurance score;
- (ii) Territory and/or geographic area;
- (iii) Protection class;
- (iv) Amount of insurance;
- (v) Surcharges or discounts based on loss history;
- (vi) Number of family units; and
- (vii) Policy form relativity.

(b) For private passenger automobile, personal liability and theft, and mechanical breakdown insurance:

- (i) Insurance score;
- (ii) Driver class;
- (iii) Multicar discount;
- (iv) Territory and/or geographic area;
- (v) Vehicle use;
- (vi) Rating factors related to driving record; and
- (vii) Surcharges or discounts based on loss history.

(2) An insurer must provide a general description of the model used to perform the multivariate analysis, including the:

- (a) Formulas the model uses;
- (b) Rating factors that are included in the modeling process; and
- (c) Output from the model, such as indicated rates or rating factors.

(3) An insurer must show how the proposed rates or rating factors are related to the multivariate analysis.

~~((4) The temporary prohibition in WAC 284-24A-090 on the use of credit history to determine personal insurance rates, premiums, or eligibility for coverage for all homeowners and private passenger automobile coverage will remain in effect for three years following the day the national emergency concerning the novel coronavirus disease (COVID-19) outbreak declared by the President on March 13, 2020, under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates, or the day the Governor's Proclamation 20-05, proclaiming a state of emergency throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States expires, whichever is later.~~

~~(a) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~(i) Homeowners coverage includes dwelling property, mobile homeowners, manufactured homeowners, renters, and condominium owner's coverage.~~

~~(ii) Private passenger automobile coverage includes motorcycles and recreational vehicle coverage.~~

~~(b) The temporary prohibition on the use of credit history to determine personal insurance rates, premiums, or eligibility for homeowners and private passenger automobile coverage does not apply to commercial lines, personal liability and theft, earthquake, personal inland marine, or mechanical breakdown coverage.)~~

[Statutory Authority: RCW 48.02.060, 48.18.480, 48.19.020, 48.19.035, 48.19.080. WSR 22-04-090 (Matter R 2021-07), § 284-24A-050, filed 2/1/22, effective 3/4/22. Statutory Authority: RCW 48.02.060, 48.18.545, 48.19.035, and 48.30.010. WSR 05-02-026 (Matter No. R 2004-01), § 284-24A-050, filed 12/29/04, effective 7/1/05. Statutory Authority: RCW 48.02.060, 48.18.100, 48.18.120, 48.19.080, 48.19.370, 48.30.010, 49.60.178, 48.18.545(7), 48.19.035(5). WSR 02-19-013 (Matter No. R 2001-11), § 284-24A-050, filed 9/6/02, effective 10/7/02.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-24A-090

Temporary prohibition of use of credit
history.

WSR 22-22-092

EXPEDITED RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed November 1, 2022, 4:42 p.m.]

Title of Rule and Other Identifying Information: WAC 246-945-162 Pharmacist license qualifications, 246-945-200 Pharmacy assistants, and 246-945-205 Pharmacy technician certification. The pharmacy quality assurance commission (commission) is proposing permanent amendments to remove specific requirements for AIDS education requirements. These amendments are in response to the repeal of statutory authority for specific AIDS education trainings by ESHB 1551 (chapter 76, Laws of 2020). Other formatting changes are also proposed.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed amendments to WAC 246-945-162, 246-945-200, and 246-945-205 is to align the rules with statutory amendments under ESHB 1551, which repealed the statutory requirement for health care professionals to complete AIDS education and training. Removing this requirement from WAC 246-945-162, 246-945-200, and 246-945-205 will align the rules with the statute and complete the commission's implementation of ESHB 1551.

Other amendments are necessary in the above cited sections to align rule language with current formatting standards and statutory citations.

Reasons Supporting Proposal: The commission is proposing the repeal of specific AIDS education and training requirements as it is no longer supported by statute and it is intended to reduce stigma towards people living with HIV/AIDS.

Statutory Authority for Adoption: RCW 18.64.005, 18.64A.020, and 18.64A.030.

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

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

Name of Proponent: Pharmacy quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Joshua Munroe, 111 Israel Road, Tumwater, WA 98501, 360-236-2987.

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.

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

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The statutory authority for the rule has been repealed. The proposed rule language will align with amendments made by ESHB 1551 (chapter 76, Laws of 2020). The proposed rule also reflects amendments required by the code reviser to align rule language with current formatting standards.

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 Joshua Munroe, Pharmacy Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-2987, email <https://fortress.wa.gov/doh/policyreview>, AND RECEIVED BY January 3, 2023.

November 1, 2022
Teri Ferreira, RPh, Chair
Pharmacy Quality Assurance Commission

OTS-3928.2

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-162 Pharmacist license qualifications. (1) In addition to the requirements in RCW 18.64.080, an applicant for a pharmacist license who holds a baccalaureate degree in pharmacy or a doctor of pharmacy degree from a commission accredited school or college of pharmacy shall submit documentation of education and practice experience as follows:

(a) An applicant who graduated before July 1, 2020, whose official transcripts confer or award a baccalaureate of pharmacy or doctorate of pharmacy degree shall provide certification of at least (~~fifteen hundred~~) 1500 pharmacy internship hours in accordance with WAC 246-945-163.

(b) An applicant who graduates after July 1, 2020, whose official transcripts confer or award a doctorate of pharmacy is deemed to have satisfied the pharmacy practice experience and education requirements for licensure without documentation of internship hours.

(2) An applicant for a pharmacist license whose academic training in pharmacy is from institutions in foreign countries shall:

(a) Achieve certification by FPGEC including:

(i) Passing FPGEE;

(ii) Passing required TOEFL iBT;

(b) Provide official transcripts or diploma that shows a baccalaureate of pharmacy or doctorate of pharmacy degree is awarded or conferred; and

(c) Certification of a minimum of (~~fifteen hundred~~) 1500 pharmacy internship hours in accordance with WAC 246-945-163.

(3) An applicant for a pharmacist license shall take and pass pharmacist licensure examinations as defined in WAC 246-945-165.

~~((4) An applicant for a pharmacist license shall provide proof of completion of seven hours of AIDS education as required in chapter 246-12 WAC, Part 8. The applicant is exempt from this requirement if they are a graduate of a commission accredited school or college of pharmacy because the curriculum satisfies this requirement.))~~

[Statutory Authority: RCW 18.64.005, 18.64.080, 18.130.075, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.370, 18.64.460, 69.50.310, 18.64.011, 18.64.245, 18.64.470, 18.64.255, 18.64.205, 18.64.253, 18.64.410, 18.64.500, 18.64.590. WSR 20-12-072, § 246-945-162, filed 6/1/20, effective 7/1/20.]

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-200 Pharmacy assistants. (1) To become registered as a pharmacy assistant an applicant shall submit an application to the commission that meets the requirements of (~~chapter 246-12 WAC, Part 2~~) WAC 246-12-020.

(2) (~~An initial applicant shall complete four hours of AIDS education as required in chapter 246-12 WAC, Part 8.~~

~~(3))~~ The supervising pharmacist, shall instruct the pharmacy assistant regarding their scope of practice.

(~~(4))~~ (3) To renew a registration a pharmacy assistant shall submit an application to the commission with the applicable fees in accordance with (~~chapter 246-907~~) WAC 246-945-990.

[Statutory Authority: RCW 18.64.005, 18.64.080, 18.130.075, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.370, 18.64.460, 69.50.310, 18.64.011, 18.64.245, 18.64.470, 18.64.255, 18.64.205, 18.64.253, 18.64.410, 18.64.500, 18.64.590. WSR 20-12-072, § 246-945-200, filed 6/1/20, effective 7/1/20.]

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-205 Pharmacy technician certification. (1) An applicant for a pharmacy technician certification shall be (~~eighteen~~) 18 years of age and hold a high school diploma or GED.

(2) To be issued a certification as a pharmacy technician an applicant shall meet the qualifications in RCW 18.64A.020, and:

(a) Provide proof of completion of eight hours of guided study of Washington state and federal pharmacy law. The law study shall be done in coordination and oversight of a Washington licensed pharmacist.

(b) (~~Provide proof of four hours of AIDS education as required in chapter 246-12 WAC, Part 8, the applicant is exempt if they have completed a commission approved training program whose program materials on file with the commission office document four hours of AIDS education.~~

~~(e))~~ Provide proof of successful completion of a commission-approved pharmacy-technician training program WAC 246-945-215. Acceptable documentation includes:

(i) On-the-job training program. Successful completion of didactic and practice experience signed by the program director on a form provided by the commission; or

(ii) Formal academic or college programs. Official transcripts of completion of a diploma or certificate program at a pharmacy techni-

cian school or a two-year associate degree program, which shall include evidence of practice training hours; or

(iii) Certificate of Release or Discharge from Active Duty, DD214 documenting evidence of pharmacy technician training provided by a branch of the federal armed services.

~~((d))~~ (c) Pass a national certification examination approved by the commission within one year of completing a commission-approved training program and applying for certification, unless otherwise authorized by the commission.

(3) An applicant who is a graduate of a foreign school, university or college of pharmacy or medicine, whose professional degree program is approved by the commission shall complete the following:

(a) If English is not the primary language, the applicant shall take and pass TOEFL iBT;

(b) Complete ~~((five hundred twenty))~~ 525 hours of supervised experience under the supervision of a licensed pharmacist with training hours reported using forms provided by the commission; and

(c) Pass a national certification examination approved by the commission.

(4) An out-of-state pharmacy technician applicant must meet the same requirements as a pharmacy technician trained in Washington state.

[Statutory Authority: RCW 18.64.005, 18.64.080, 18.130.075, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.370, 18.64.460, 69.50.310, 18.64.011, 18.64.245, 18.64.470, 18.64.255, 18.64.205, 18.64.253, 18.64.410, 18.64.500, 18.64.590. WSR 20-12-072, § 246-945-205, filed 6/1/20, effective 7/1/20.]

WSR 22-22-103

EXPEDITED RULES

HEALTH CARE AUTHORITY

[Filed November 2, 2022, 9:50 a.m.]

Title of Rule and Other Identifying Information: WAC 182-531-1675
Washington apple health—Gender affirming interventions for gender
dysphoria.

Purpose of the Proposal and Its Anticipated Effects, Including
Any Changes in Existing Rules: The health care authority (HCA) is cor-
recting a typographical error in the cross-reference to the early and
periodic screening, diagnosis, and treatment program rules in subsec-
tion (1)(f). The current cross-reference points to chapter 182-543
WAC. This should read chapter 182-534 WAC.

Reasons Supporting Proposal: To correct a typographical error.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Jason Crabbe,
P.O. Box 42716, Olympia, WA 98504-2716, 360-725-9563; Implementation
and Enforcement: Cathy Carroll, P.O. Box 45502, Olympia, WA
98504-5502, 360-725-2033.

Agency Comments or Recommendations, if any, as to Statutory Lan-
guage, Implementation, Enforcement, and Fiscal Matters: Not applica-
ble.

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 is for correction pur-
poses only, as allowed by RCW 34.05.353 (1)(c).

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROC-
ESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEAR-
INGS, 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 EX-
PRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Wendy Bar-
cus, Rules Coordinator, HCA, P.O. Box 42716, Olympia, WA 98504-2716,
phone 360-725-1306, fax 360-586-9272, email arc@hca.wa.gov, AND RE-
CEIVED BY January 4, 2023.

November 2, 2022
Wendy Barcus
Rules Coordinator

OTS-4180.1

AMENDATORY SECTION (Amending WSR 21-08-058, filed 4/5/21, effective 5/6/21)

WAC 182-531-1675 Washington apple health—Gender affirming interventions for gender dysphoria. (1) Overview of treatment program.

(a) **Medicaid agency coverage.** The medicaid agency covers the services listed in (b) of this subsection to treat gender dysphoria (also referred to as gender incongruence) under WAC 182-501-0050 and 182-531-0100. These services include life-changing procedures that may not be reversible.

(b) **Medical services covered.** Medical services covered by the agency include, but are not limited to:

(i) Presurgical and postsurgical hormone therapy;

(ii) Puberty suppression therapy;

(iii) Behavioral health services; and

(iv) Surgical and ancillary services including, but not limited

to:

(A) Anesthesia;

(B) Labs;

(C) Pathology;

(D) Radiology;

(E) Hospitalization;

(F) Physician services; and

(G) Hospitalizations and physician services required to treat postoperative complications of procedures performed under this section.

(c) **Surgical services covered.** Surgical services to treat gender dysphoria are a covered service for clients who have a diagnosis of gender dysphoria made by a provider who meets the qualifications outlined in chapter 182-502 WAC.

(d) **Medical necessity.** Under this program, the agency authorizes and pays for only medically necessary services. Medical necessity is defined in WAC 182-500-0070 and is determined under WAC 182-501-0165 and limitation extensions in accordance with WAC 182-501-0169.

(e) **Provider requirements.** Providers should be knowledgeable of gender-nonconforming identities and expressions, and the assessment and treatment of gender dysphoria, including experience utilizing standards of care that include the World Professional Association for Transgender Health (WPATH) Standards of Care.

(f) **Clients age twenty and younger.** The agency evaluates requests for clients age twenty and younger according to the early and periodic screening, diagnosis, and treatment (EPSDT) program described in chapter ((182-543)) 182-534 WAC. Under the EPSDT program, the agency pays for a service if it is medically necessary, safe, effective, and not experimental.

(g) **Transportation services.** The agency covers transportation services under the provisions of chapter 182-546 WAC.

(h) **Out-of-state care.** Any out-of-state care, including a presurgical consultation, must be prior authorized as an out-of-state service under WAC 182-501-0182.

(i) **Reversal procedures.** The agency does not cover procedures and surgeries related to reversal of gender affirming surgery.

(j) **Corrective surgeries for intersex traits.** The agency covers corrective or reparative surgeries for people with intersex traits who received surgeries that were performed without the person's consent.

(2) **Prior authorization.**

(a) **Prior authorization requirements for surgical services.** As a condition of payment, the agency requires prior authorization for all surgical services to treat gender dysphoria, including modifications to, or complications from, a previous surgery, except as provided in subsection (3) of this section.

(b) **Required documentation.** The provider must include the following documentation with the prior authorization request:

(i) **Two psychosocial evaluations required.** Documentation of two separate psychosocial evaluations performed within (~~eighteen~~) 18 months preceding surgery by two separate qualified mental health professionals as defined in WAC 182-531-1400. These providers must be licensed health care professionals who are eligible under chapter 182-502 WAC, as follows:

(A) Psychiatrist;
 (B) Psychologist;
 (C) Psychiatric advanced registered nurse practitioner (ARNP);
 (D) Psychiatric mental health nurse practitioner-board certified (PMHNP-BC);

(E) Mental health counselor (LMHC);
 (F) Independent clinical social worker (LICSW);
 (G) Advanced social worker (LASW); or
 (H) Marriage and family therapist (LMFT).

(ii) **One psychosocial evaluation for top surgery.** For top surgery with or without chest reconstruction, the agency requires only one comprehensive psychosocial evaluation.

(iii) **Evaluation requirements.** Each comprehensive psychosocial evaluation must:

(A) Confirm the diagnosis of gender dysphoria as defined by the *Diagnostic Statistical Manual of Mental Disorders*;

(B) Document that:

(I) The client has:

- Lived for (~~twelve~~) 12 continuous months in a gender role that is congruent with their gender identity, except for top surgery, hysterectomy, or orchiectomy; or

- Been unable to live in their gender identity due to personal safety concerns.

(II) The client has been evaluated for any coexisting behavioral health conditions and if any are present, the conditions are adequately managed.

(iv) **Hormone therapy.** Documentation from the primary care provider or the provider prescribing hormone therapy that the client has:

(A) Had (~~twelve~~) 12 continuous months of hormone therapy immediately preceding the request for surgery, as appropriate to the client's gender goals, unless hormones are not clinically indicated for the individual, with the exception of mastectomy or reduction mammo-plasty, which do not require hormone therapy; or

(B) A medical contraindication to hormone therapy; and

(C) A medical necessity for surgery and that the client is adherent with current gender dysphoria treatment.

(v) **Surgical.** Documentation from the surgeon of the client's:

(A) Medical history and physical examination(s) performed within the (~~twelve~~) 12 months preceding surgery;

(B) Medical necessity for surgery and surgical plan; and

(C) For hysterectomies, a completed agency hysterectomy consent form must be submitted.

(c) **Other requirements.** If the client fails to complete all of the requirements in subsection (2)(b) of this section, the agency will not authorize gender affirming surgery unless:

(i) The clinical decision-making process is provided in the referral letter and attachments described in subsection (2)(b) of this section; and

(ii) The agency has determined that the request is medically necessary in accordance with WAC 182-501-0165 based on review of all submitted information.

(d) **Behavioral health provider requirements.** Behavioral health providers who perform the psychosocial evaluation described in subsection (2)(b)(i) of this section must:

(i) Meet the provisions of WAC 182-531-1400;

(ii) Be competent in using the *Diagnostic Statistical Manual of Mental Disorders*, and the *International Classification of Diseases* for diagnostic purposes;

(iii) Be able to recognize and diagnose coexisting mental health conditions and to distinguish these from gender dysphoria;

(iv) Be knowledgeable of gender-nonconforming identities and expressions, and the assessment and treatment of gender dysphoria; and

(v) Have completed continuing education in the assessment and treatment of gender dysphoria. This may include attending relevant professional meetings, workshops, or seminars; obtaining supervision from a mental health professional with relevant experience; or participating in research related to gender nonconformity and gender dysphoria.

(e) **Clients age ((seventeen)) 17 and younger.** Clients age ((seventeen)) 17 and younger must meet the requirements for prior authorization identified in subsection (2)(a) through (d) of this section, except that:

(i) One of the comprehensive psychosocial evaluations required in subsection (2)(b)(i) of this section must be performed by a behavioral health provider who specializes in adolescent transgender care and meets the qualifications outlined in WAC 182-531-1400.

(ii) For top surgery with or without chest reconstruction, the agency requires only one comprehensive psychosocial evaluation from a behavioral health provider who specializes in adolescent transgender care and meets the qualifications outlined in WAC 182-531-1400.

(3) **Expedited prior authorization (EPA).**

(a) **Approved EPA procedures.** The agency allows a provider to use the EPA process for clients age ((seventeen)) 17 and older for the following medically necessary procedures:

(i) Bilateral mastectomy or reduction mammoplasty with or without chest reconstruction; and

(ii) Genital or donor skin graft site hair removal when medically necessary to prepare for genital reassignment.

(b) **Clinical criteria and documentation.** To use the EPA process for procedures identified in (a) of this subsection, the following clinical criteria and documentation must be kept in the client's record and made available to the agency upon request:

(i) One comprehensive psychosocial evaluation performed by a licensed behavioral health provider within the ((eighteen)) 18 months preceding surgery that meets the requirements identified in subsection (2) of this section;

(ii) Documentation from the primary care provider or the provider prescribing hormone therapy of the medical necessity for surgery and

confirmation that the client is adherent with current gender dysphoria treatment; and

(iii) Documentation from the surgeon of the client's:

(A) Medical history and physical examinations performed within the ((~~twelve~~)) 12 months preceding surgery; and

(B) Medical necessity for surgery and surgical plan.

(c) **Documentation exception.** When the requested procedure is for genital or donor skin graft site hair removal to prepare for bottom surgery, there is an exception to the requirements in (b) of this subsection. The only documentation required is either a:

(i) Letter of medical necessity from the treating surgeon that includes the size and location of the area to be treated, and expected date of planned genital surgery; or

(ii) Letter of medical necessity from the provider who will perform the hair removal that includes the surgical consult for bottom surgery and addresses the need for hair removal prior to gender affirming surgery.

(d) **Prior authorization required for other surgeries.** All other surgeries to treat gender dysphoria, including modifications to, or complications from a previous surgery require prior authorization to determine medical necessity.

(e) **Recoupment.** The agency may recoup any payment made to a provider for procedures listed in this subsection if the provider does not follow the EPA process outlined in WAC 182-501-0163 or if the provider does not maintain the documentation required by this subsection.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 21-08-058, § 182-531-1675, filed 4/5/21, effective 5/6/21; WSR 15-16-084, § 182-531-1675, filed 7/31/15, effective 8/31/15.]