

WSR 24-08-012
PROPOSED RULES
GAMBLING COMMISSION
[Filed March 21, 2024, 3:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-09-066.

Title of Rule and Other Identifying Information: Problem gambling signage, WAC 230-06-068.

Hearing Location(s): On May 9, 2024, at 9:30 a.m., at the Washington State Gambling Commission, 4565 7th Avenue S.E., Lacey, WA 98503. The meeting time and location are tentative. Visit our website at www.wsgc.wa.gov approximately seven days prior to the meeting and select "About Us" and then, "Upcoming commission meetings" to confirm the hearing date, location, start time, and agenda items.

Date of Intended Adoption: May 9, 2024.

Submit Written Comments to: Adam Amorine, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, www.wsgc.wa.gov, by May 8, 2024.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, www.wsgc.wa.gov, by May 8, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule would enact more explicit requirements related to licensees' duty to display problem gambling signage at all public entrances and exits to the gambling area of the business, in or near the gambling area(s), and in any areas where cash or electronic transfers of funds are available to patrons within the designated gambling area. The proposed rule would also require all advertising material to contain a responsible gambling message. Finally, the proposed rule would require a clear "opt-out" method on advertising materials that would allow patrons to unsubscribe from receiving future advertising, marketing, or promotional communications.

Reasons Supporting Proposal: The proposed rules are aimed at ensuring those individuals who might have a problem gambling disorder are aware of the avenues available to them for treating their disorder.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Adam Amorine, Rules Coordinator, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3473; Implementation: Tina Griffin, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546; and Enforcement: Gary Drumheller, Deputy Director, 4565 7th Avenue S.E., Lacey, WA 98503, 509-325-7904.

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 per RCW 34.05.328 (5) (b) (v).

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.

March 21, 2024

Adam Amorine

Staff Attorney and Rules Coordinator

OTS-5248.1

NEW SECTION

WAC 230-06-068 Problem gambling signage and posting requirements. (1) The commission will provide licensees with problem gambling, gambling disorder, and responsible gambling informational signs, which include a responsible gambling message and a toll-free helpline number for problem gambling and gambling disorders. The signs must be conspicuously posted: At all public entrances and exits to the gambling area of the business; in or near the gambling area(s); and in any areas where cash or electronic transfers of funds are available to patrons within the designated gambling area.

(2) All advertising materials must contain a responsible gambling message.

(a) Advertising is any notice or communication to the public of any information concerning the gambling-related business of the licensee through broadcasting, publication, or any other means of dissemination.

(b) For bingo licensees conducting bingo on more than three occasions per week, advertisements must follow RCW 9.46.072.

(c) The responsible gambling message must include, at a minimum, the statement "play responsibly" or similar language and the toll-free telephone helpline number for problem gambling and gambling disorders. Provided, an alternative to the responsible gambling message would be to contain the words "If you or someone you know has been harmed by gambling and wants help, call 1-800-GAMBLER."

(3) All direct advertising, marketing, or promotional materials must include a clear and conspicuous method allowing patrons to unsubscribe from future advertising, marketing, or promotional communications.

(4) This rule does not apply to major, mid-level, or ancillary sports wagering vendors.

WSR 24-08-029
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed March 26, 2024, 1:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-24-045.

Title of Rule and Other Identifying Information: WAC 181-79A-117
Uniform expiration date.

Hearing Location(s): On May 16, 2024, at 8 a.m., in Tri-Cities, Washington. Exact meeting location and a link to listen to the meeting virtually will be available several weeks prior to the meeting. More information regarding this can be found on our website <https://www.pesb.wa.gov/about-us/board-meetings/>.

Date of Intended Adoption: May 16, 2024.

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 a.m., Monday, May 13, 2024.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb.k12.wa.us, by Thursday, May 2, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule change would add a renewal date to newly issued educator certificates.

Reasons Supporting Proposal: This rule change would allow for improved customer service for educators seeking certificate renewal.

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: Michael Nguyen, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-489-4471; Implementation: Jeffrey Youde, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-870-0143; and Enforcement: Erica Hernandez-Scott, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-2443.

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.

Scope of exemption for rule proposal:

Is fully exempt.

March 26, 2024
Michael Nguyen
Rules Coordinator

OTS-5117.1

AMENDATORY SECTION (Amending WSR 21-15-085, filed 7/16/21, effective 8/16/21)

WAC 181-79A-117 Uniform expiration and renewal application 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 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 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) Certificates subject to renewal under chapter 181-79A WAC shall have a renewal application submission deadline six months prior to the certificate's expiration date. Any application for renewal submitted after the January 1st submission deadline date is considered late.

(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~~) 180-day permit 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~~) 30 consecutive days shall be granted an extension of the expiration date of their certificate. The extension shall be equal to the length of active duty service calculated to the next uniform expiration date.

WSR 24-08-046

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed March 28, 2024, 2:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-081.

Title of Rule and Other Identifying Information: Creating a new chapter under Title 192 WAC, chapter 192-511 WAC, Transportation network company pilot program; new WAC 192-511-005 Definitions applicable to the transportation network company pilot program, 192-511-010 How do transportation network company drivers elect paid family and medical leave coverage?, 192-511-015 Transportation network company rights and responsibilities, and 192-511-020 Self-employed elective coverage requirements apply to the pilot program.

Hearing Location(s): On May 8, 2024, at 9:00 a.m., via Microsoft Teams. Join online; link available at paidleave.wa.gov/rulemaking; or join by phone 564-999-2000, PIN 671 059 998#.

Date of Intended Adoption: On or after May 15, 2024.

Submit Written Comments to: Janette Benham, Employment Security Department (ESD), P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, by May 8, 2024.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, state EO officer, phone 360-480-5708, email teckstein@esd.wa.gov, by May 1, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The paid family and medical leave (PFML) program is proposing a new chapter of rules under Title 192 WAC to implement the pilot program for transportation network company (TNC) drivers (drivers) created under SHB 1570 (chapter 451, Laws of 2023). The law creates a pilot program for drivers to elect PFML coverage with premiums paid by the driver and reimbursed by their TNC. The pilot begins July 1, 2024, and ends December 31, 2028.

Reasons Supporting Proposal: The proposed new chapter to Title 192 WAC creates standards and provides explanations for how a driver will elect coverage in the pilot program. The new chapter also sets the rights and responsibilities for TNCs related to the pilot program. ESD is given explicit rule-making authority to set standards for the pilot program under RCW 46.72B.200(9).

Statutory Authority for Adoption: RCW 50A.05.060, 46.72B.200.

Statute Being Implemented: RCW 46.72B.200, 50A.25.040; chapter 50A.50 RCW.

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, Olympia, 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. New WAC 192-511-005 Definitions applicable to the transportation network company pilot program. This rule is exempt under RCW 34.05.328

(5)(b)(ii) and (v) because the section provides definitions that do not subject nongovernment parties to a violation, and they reference definitions found in statute.

New WAC 192-511-010 How do transportation network company drivers elect paid family and medical leave coverage? This rule is exempt under RCW 34.05.328 (5) (c) (ii) because the rule does not subject a person to a penalty or sanction and sets forth ESD's interpretation of statutory provisions it administers.

New WAC 192-511-015 Transportation network company rights and responsibilities. This section is exempt under RCW 34.05.328 (b) (v) because this section restates requirements that are found in laws outside of Title 50A RCW. The rule provides this information for people looking at ESD's regulations related to the pilot program. It also incorporates language found in RCW 50A.25.040.

New WAC 192-511-020 Self-employed elective coverage requirements apply to the pilot program. This section is exempt under RCW 34.05.328 (5) (c) (ii) because the rule does not subject a person to a penalty or sanction and sets forth ESD's interpretation of statutory provisions it administers.

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; and rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

	Proposed WAC Sections and Title	This proposed rule section is exempt. Provide RCW to support this exemption.
1.	New WAC 192-511-005 Definitions applicable to the transportation network company pilot program.	RCW 34.05.310 (4)(b) - This rule provides definitions for the pilot and is not subject to violation by a nongovernmental party.
2.	New WAC 192-511-010 How do transportation network company drivers elect paid family and medical leave coverage?	RCW 19.85.025(4) - The rule does not affect businesses and pertains only to individuals applying for paid family and medical leave benefits.
3.	New WAC 192-511-015 Transportation network company rights and responsibilities.	RCW 34.05.310 (4)(e) - This rule incorporates statutory language found outside of Title 50A RCW, namely language found in RCW 46.72B.200. It also incorporates language found in RCW 50A.25.040.
4.	New WAC 192-511-020 Self-employed elect coverage requirements apply to the pilot program.	RCW 19.85.025(4) - This rule does not affect businesses and pertains only to individuals applying for paid family and medical leave benefits.

March 28, 2024

April Amundson

Policy and Rules Manager, ESPI
Leave and Care Programs

OTS-5291.2

**Chapter 192-511 WAC
TRANSPORTATION NETWORK COMPANY PILOT PROGRAM**

NEW SECTION

WAC 192-511-005 Definitions applicable to the transportation network company pilot program. The following definitions are applicable under this chapter.

- (1) "Compensation" has the same meaning as defined in RCW 49.46.300.
- (2) "Department" means the employment security department.
- (3) "Digital network" has the same meaning as defined in RCW 49.46.300.
- (4) "Pilot program" refers to the temporary program providing elective coverage to transportation network company drivers created under chapter 451, Laws of 2023. The pilot program is effective from July 1, 2024, through December 31, 2028.
- (5) "Third party" means a designated representative that is authorized to conduct business on behalf of the transportation network company driver. To represent a driver before the department, the driver or third party must submit documentation in a format approved by the department. The driver is responsible for all acts taken or failures to act by the third party on the driver's behalf.
- (6) A "transportation network company" has the same meaning as defined in RCW 46.04.652.
- (7) A "transportation network company driver" has the same meaning as commercial transportation services provider driver in RCW 48.177.005.

NEW SECTION

WAC 192-511-010 How do transportation network company drivers elect paid family and medical leave coverage? (1) Notice of election of coverage must be submitted to the department online or in another format approved by the department. Either the department or the third party if designated by a driver, may inform transportation network companies of a driver's election of coverage into the pilot program.

- (2) Election of coverage begins on the first day of the quarter immediately following the notice of election.
- (3) A transportation network company driver electing coverage is eligible for family and medical leave after working 820 hours in the state during the qualifying period following the effective date of coverage.
- (4) Any transportation network company driver or third party may file a notice of withdrawal within 30 days after the end of each quarterly period of coverage. The withdrawal will take effect the first day of the following quarter.
- (5) A notice of withdrawal from coverage must be submitted to the department online or in another format approved by the department.
- (6) Any levy resulting from the department's cancellation of coverage is in addition to the due and unpaid premiums and interest for the remainder of the quarterly period of coverage.
- (7) Transportation network company drivers electing coverage must elect both family and medical leave and are responsible for 100 percent of all premiums assessed to an employee under RCW 50A.10.030.

NEW SECTION

WAC 192-511-015 Transportation network company rights and responsibilities. (1) By the 15th day of the month following the end of a calendar quarter, transportation network companies must report to each driver in Washington who opted into the pilot program, and to the driver's third-party representative when so designated by a driver, the total amount of compensation that the driver earned providing network services through the transportation network company's digital network in that quarter. The transportation network company shall share data with the third-party representative in a standard format approved by the department to facilitate quarterly reporting and premium payment.

(2) By the 15th day of the month following the driver's deadline for the calendar quarter, the department will provide data to each transportation network company on the drivers who, in that calendar quarter:

(a) Reported and paid all obligated premiums; and

(b) Withdrew or canceled paid family and medical leave coverage.

(3) Data described in subsection (2) of this section provided by the department includes:

(a) When a driver has elected coverage;

(b) A driver's assessed and paid premiums;

(c) When a driver's elective coverage has been withdrawn or canceled; and

(d) Information related to a third party authorized to be acting on the driver's behalf regarding reporting and paying of premiums.

(e) The data described in this subsection will be provided to transportation network companies until February 15, 2029.

(4) By the 15th day following the receipt of information from the department described under subsection (3) of this section, transportation network companies must pay each driver who elected coverage under WAC 192-511-010 the premiums paid by the transportation network company driver. If the driver has designated a third-party representative, then the transportation network companies must pay the third party, rather than the driver, for any premiums paid by the third party on behalf of the transportation network company driver.

(a) For the purposes of this section, compensation does not include any amount listed in RCW 50A.05.010 (22) (d).

(b) The requirement to pay premiums under the pilot program ends December 31, 2028.

NEW SECTION

WAC 192-511-020 Self-employed elective coverage requirements apply to the pilot program. As described in RCW 46.72B.200, a driver who opts into the pilot program is subject to the rights and responsibilities as they apply to self-employed individuals who elect coverage under Titles 50A RCW and 192 WAC, except for the period of coverage requirements described under RCW 50A.10.010(1) and WAC 192-510-010.

WSR 24-08-053

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed March 29, 2024, 8:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-03-161.

Title of Rule and Other Identifying Information: WAC

182-531A-0900 Applied behavior analysis (ABA)—Covered services.

Hearing Location(s): On May 7, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_PQetrA72RJuTy42XnHFNMQ. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than May 8, 2024.

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 May 7, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service (TRS) 711, email Johanna.larson@hca.wa.gov, by April 26, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending this rule to specify that HCA's ABA program does not pay for services provided by a client's parent, guardian, caregiver, or other support person.

Reasons Supporting Proposal: See purpose.

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: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Alyssa Jennings, P.O. Box 45502, Olympia, WA 98504-5502, 360-725-1194.

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.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

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. HCA is amending this rule to specify that HCA's ABA program does not pay for services provided by a client's parent, guardian, caregiver, or other support person.

The Behavior Analyst Certification Board (BACB) is a national organization that certifies ABA providers. ABA provider types include a board certified behavior analyst (BCBA), board certified assistant behavior analyst (BCaBA) and registered behavior technician (RBT). In Washington state, the department of health has three ABA professions that correspond with BACB's provider types, including a licensed be-

havior analyst (LBA), licensed assistant behavior analyst (LABA) and certified behavior technician (CBT). The LBA conducts assessments, develops, and maintains a treatment plan and oversees the implementation of the treatment plan by the LABA or CBT. The LABA may perform similar duties as an LBA, but under the supervision of an LBA.

BACB's ethics code for behavior analysts and RBT ethics code both require that providers avoid multiple relationships, including professional, personal, and familial relationships with clients, colleagues, supervisors, and supervisees. For example, if a parent became an RBT for their child, this would be considered a multiple relationship for both the RBT and the supervising LBA. The LBA would be the LBA of the parent's child in addition to their supervisor. BACB recently published a newsletter specifying that parents must not act as RBT for their own children and differentiates this from participating in caregiver training. Multiple relationships in ABA create conflicts of interest and would likely cloud a provider's judgment and lead to procedural drift. HCA is making the rule change to prevent conflicts of interest and promote ethical, effective treatment for apple health recipients.

In order for businesses to comply with the rule change, they must ensure that any ABA services billed to HCA or a managed care organization (MCO) were not provided by a family member of the client. If any of their apple health clients are receiving ABA services from a family member at the time of the rule change, they will need to assign a different provider to the client, switch to a different model of care, or refer the client to a different ABA provider. For example, if an ABA company is employing a parent as a CBT for one's own child, the company may either assign a different CBT to the child, move to a caregiver training only model of ABA, or refer the client to a different company. The costs associated with hiring and training new staff will depend on whether the provider is already licensed and whether the company chooses to reimburse the provider for any training, application, or examination fees. In a caregiver training only model, the LBA and/or LABA, who is not a family member of the client, provides training and consultation to the caregivers on the use of ABA interventions. This is not considered providing direct ABA services to their own child. A caregiver training only model typically consists of fewer hours per week overall than a traditional model of ABA. However, the rates published on the apple health fee-for-service ABA fee schedule for caregiver training is higher than the rates for providing direct ABA services. The number of units of each code is highly individualized to each client receiving ABA.

To obtain information for the purposes of completing a small business economic impact statement, HCA surveyed its ABA stakeholders. HCA provided a copy of the proposed rule, asked stakeholders for input on the rule draft, and asked stakeholders to provide information relevant to the following issues:

- Whether the proposed rule imposes compliance or other costs on your business, and if so, the kind and extent of those costs.
- Whether the proposed rule will result in lost revenue, and if so, the extent of that lost revenue.
- How HCA could amend its proposed rule to reduce the costs and other impacts the rule imposes on businesses while retaining the rule's objectives.

On February 21, 2024, HCA sent the survey by electronic mail to the 3,476 addresses that stakeholders have registered for the receipt of HCA communications related to any applied behavior analysis rule

making. HCA requested receipt of responses by March 6, 2024. HCA received no responses.

A copy of the detailed cost calculations may be obtained by contacting Alyssa Jennings, P.O. Box 45502, Olympia, WA 98504-5502, phone 360-725-1194, fax 360-586-9727, TRS 711, email alyssa.jennings@hca.wa.gov.

March 29, 2024
Wendy Barcus
Rules Coordinator

OTS-5218.2

AMENDATORY SECTION (Amending WSR 22-08-035, filed 3/29/22, effective 4/29/22)

WAC 182-531A-0900 Applied behavior analysis (ABA)—Covered services. (1) The medicaid agency covers only the following applied behavior analysis (ABA) services, delivered in settings described in WAC 182-531A-0600, for eligible clients:

- (a) The ABA assessments that determine the relationship between environmental events and the client's behaviors;
- (b) The direct provision of ABA services by the therapy assistant (TA) or lead behavior analysis therapist (LBAT);
- (c) Initial ABA assessment and development of a written, initial ABA therapy treatment plan, limited to one per year;
- (d) Up to four additional ABA assessments and revisions of the initial ABA therapy treatment plan per year, if necessary to meet client's needs;
- (e) One lifetime authorization of day treatment services. If a provider's request for covered services exceeds limitations in this section, the agency evaluates the request under WAC 182-501-0169.
- (f) Supervision of the TA;
- (g) Training and evaluation of family members or caregivers to carry out the approved ABA therapy treatment plans;
- (h) Observation of the client's behavior to determine the effectiveness of the approved ABA therapy treatment plan; and
- (i) On-site assistance in the event of a crisis.

(2) The agency covers the following services, which may be provided in conjunction with ABA services under other agency programs:

- (a) Counseling;
- (b) Dietician services;
- (c) Interpreter services;
- (d) Occupational therapy;
- (e) Physical therapy;
- (f) Speech and language therapy; and
- (g) Transportation services.

(3) The agency does not (~~authorize payment of~~) pay for ABA services:

- (a) That duplicate services provided in another setting; or
- (b) That are provided by a family member.

(4) If a provider's request for covered services exceeds limitations in this section, the agency evaluates the request under WAC 182-501-0169.

WSR 24-08-066
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed April 1, 2024, 5:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-04-096.

Title of Rule and Other Identifying Information: WAC 110-425-0030
Definitions.

Hearing Location(s): On May 7, 2024, telephonic. Make oral comments by calling 360-972-5385 and leaving a voicemail that includes the comment and an email address or physical mailing address where the department of children, youth, and families (DCYF) will send its response. Comments received through and including May 7, 2024, will be considered.

Date of Intended Adoption: May 8, 2024.

Submit Written Comments to: DCYF rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by May 7, 2024.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-522-3691, email dcyf.rulescoordinator@dcyf.wa.gov, by April 30, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The early learning division of DCYF is amending WAC 110-425-0030 Definitions, because the Fair Start for Kids Act (E2SSB 5237) directs DCYF to establish a definition of an Indian child that will be used for early childhood education and assistance program (ECEAP) enrollment. The definition will include federally recognized tribal members and increase clarity around which children are eligible for enrollment as an Indian child into ECEAP programming. The definition needs to be in rule by July 1, 2024.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 43.216.505, 43.216.512, 43.216.5052; and E2SSB 5237, chapter 199, Laws of 2021.

Statute Being Implemented: RCW 43.216.505, 43.216.512, 43.216.5052; and E2SSB 5237, chapter 199, Laws of 2021.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Nicole Parker, Olympia, 360-338-5162; Implementation and Enforcement: DCYF, state-wide.

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). Further, DCYF does not voluntarily make 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) as the rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

April 1, 2024
Brenda Villarreal

OTS-5296.2

AMENDATORY SECTION (Amending WSR 19-24-014, filed 11/21/19, effective 12/22/19)

WAC 110-425-0030 Definitions. "Child allowed for enrollment" means a child that DCYF may permit to be enrolled in ECEAP under RCW 43.216.512, but who is not in the group that will be entitled to ECEAP beginning in the ((2022-23)) 2026-27 school year under RCW 43.216.556.

"Child eligible for enrollment" means a child who is eligible for ECEAP under RCW 43.216.505(4). This child is in the group that will be entitled to ECEAP beginning in the ((2022-23)) 2026-27 school year under RCW 43.216.556. Under RCW 43.216.514, a child eligible for enrollment must be given enrollment priority over a child allowed for enrollment. "Eligible child" has the same meaning as "child eligible for enrollment."

"Contractor" means a public or private organization that contracts with the department of children, youth, and families to provide local ECEAP services.

"Department" means the department of children, youth, and families.

"ECEAP" means the early childhood education and assistance program.

"Eligible organization" means public or private organizations including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, non-profit organizations, and for-profit organizations provided that their proposed ECEAP is free from religious instruction, activities, or symbolism.

"Federal poverty level" or "FPL" means the measure of income in relation to family size issued by the federal U.S. Department of Health and Human Services and used to calculate ECEAP income eligibility.

"Indian child" means for:

(a) ECEAP sites run by sovereign tribal nations: Indian child as defined by the tribe and submitted to the department.

(b) Nontribal providers serving tribal children, including tribal nonprofit providers: Indian child as defined in WAC 110-110-0010.

"Performance standards" means the most current release of the ECEAP performance standards as incorporated into the ECEAP contract, which are accessible at <https://www.dcyf.wa.gov/services/early-learning-providers/eceap/contractors>.

WSR 24-08-070
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed April 2, 2024, 9:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-02-035.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-478-0015 Need standards for cash assistance.

Hearing Location(s): On May 7, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. See the DSHS website <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: No earlier than May 8, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by May 7, 2024, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules coordinator, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email tenczsa@dshs.wa.gov, by April 23, 2024, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 74.04.770 requires DSHS to annually update standards of need using an existing, broadly used national standard. The proposed amendments reflect this required update using the University of Washington Center for Women's Welfare Self-Sufficiency Standard.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090.

Statute Being Implemented: RCW 74.04.770.

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: Patrick Budde, P.O. Box 45470, Olympia, WA 98504, 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)(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 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: The proposed amendments do not impact small business. They only impact DSHS clients.

Scope of exemption for rule proposal:

Is fully exempt.

March 29, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5028.1

AMENDATORY SECTION (Amending WSR 23-12-053, filed 6/1/23, effective 7/2/23)

WAC 388-478-0015 Need standards for cash assistance. The monthly need and payment standards for cash assistance are based on a determination of the assistance unit size. The need standards for cash assistance units are:

Assistance unit size	Need standard
1	\$((3,258) <u>3,732</u>)
2	((5,290) <u>5,911</u>)
3	((6,396) <u>7,270</u>)
4	((8,359) <u>9,369</u>)
5	((9,872) <u>11,229</u>)
6	((11,463) <u>13,104</u>)
7	((13,081) <u>14,998</u>)
8	((14,542) <u>16,842</u>)
9	((16,428) <u>18,890</u>)
10 or more	((19,017) <u>21,888</u>)

WSR 24-08-076

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Nursing)

[Filed April 3, 2024, 8:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-02-037.

Title of Rule and Other Identifying Information: Delegation of glucose monitoring and testing by a registered nurse (RN). The Washington state board of nursing (board) is proposing new WAC 246-840-835 and 246-840-935, and amendments to WAC 246-840-930 and 246-840-940 to implement SHB 1124 (chapter 14, Laws of 2022).

Hearing Location(s): On May 10, 2024, at 2:15 p.m., at the Department of Health, Town Center 2, Room 166/167, 111 Israel Road S.E., Tumwater, WA 98501; or virtual. Please follow this link to register for the virtual hearing which will give you instructions to either join the meeting on a device or to call in to the meeting on the phone https://us02web.zoom.us/meeting/register/tZEpd--qqjwiGN2BgNYQ5aDscmprUsuLbfW_. After registering you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: May 10, 2024.

Submit Written Comments to: Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4738, by April 24, 2024.

Assistance for Persons with Disabilities: Contact Jessilyn Dagum, phone 360-236-3538, fax 360-236-4738, TTY 711, email WABONRules@doh.wa.gov, by April 24, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2022, the Washington state legislature passed SHB 1124 relating to nurse delegation of glucose monitoring, testing, and insulin injections. SHB 1124 allows RNs to delegate these tasks to nursing assistant-registered (NA-Rs), certified nursing assistant-certified (NA-Cs), or home care aides (HCAs) and specifies the settings, training, supervision, and liability of the delegation process.

The board is proposing new rule sections and amendments to existing rules to reflect current RN authority to delegate glucose monitoring and testing beyond community-based and in-home care settings to all settings where NA-Rs, NA-Cs credentialed under chapter 18.88A RCW, or HCAs certified under chapter 18.88B RCW, work. Additionally, the changes made by SHB 1124 now require the supervision and evaluation time frame to be defined in rule.

The proposed changes would significantly expand the scope of tasks that RNs can delegate related to glucose monitoring and testing. This expansion would apply to a broader range of health care settings, potentially enhancing efficiency in care delivery. The proposed changes also amend the interval of time in which RN supervision will occur from weekly to every two weeks for the first four weeks while maintaining the allowance of more frequent supervision as needed in rule.

Reasons Supporting Proposal: SHB 1124, now codified in RCW 18.79.260, directs the board to engage in rule making to expand the allowance of the RN to delegate glucose monitoring and testing beyond community-based and in-home care settings to all settings where NA-Rs, NA-Cs credentialed under chapter 18.88A RCW, or HCAs certified under

chapter 18.88B RCW, work; and define the interval of RN supervision and evaluation of the delegated task of administering insulin in rule.

Safety and the quality of care are principal in the board's rationale. The proposed changes emphasize a dedication to maintaining and enhancing patient safety by ensuring that only competent individuals undertake specific health care activities, ultimately contributing to an elevated quality of care. The board's proposal reflects a comprehensive approach to advancing health care practices, placing emphasis on patient safety, quality of care, and the adaptability of nursing professionals in response to the dynamic health care landscape as outlined in SHB 1124.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, and 18.79.260.

Statute Being Implemented: SHB 1124 (chapter 14, Laws of 2022), codified in RCW 18.79.260.

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

Name of Proponent: Washington state board of nursing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jessilyn Dagum, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-3538; and Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

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 Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, phone 360-236-3538, fax 360-236-4738, TTY 711, email WABONRules@doh.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).

Explanation of exemptions: The proposed rules only apply to licensees and do not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

April 1, 2024

Alison Bradywood DNP, MN/MPH, RN, NEA-BC
Executive Director
Washington State Board of Nursing

OTS-5046.5

NEW SECTION

WAC 246-840-835 Nurse delegation—Blood glucose monitoring and testing in settings other than community-based and in-home. In settings other than community-based and in-home that deliver health care services registered nurse may delegate blood glucose monitoring and testing only to registered or certified nursing assistants under chapter 18.88A RCW in accordance with the delegation process in RCW 18.79.260 (3) (a).

AMENDATORY SECTION (Amending WSR 22-12-026, filed 5/23/22, effective 9/9/22)

WAC 246-840-930 Criteria for delegation. (1) In community-based and in-home care settings, before delegating a nursing task, the registered nurse delegator shall decide ~~((s—the))~~ if a task is appropriate to delegate based on the elements of the nursing process: ASSESS, PLAN, IMPLEMENT, EVALUATE.

ASSESS

(2) The setting allows delegation because it is a community-based care setting as defined by RCW 18.79.260 (3) (e) (i) or an in-home care setting as defined by RCW 18.79.260 (3) (e) (ii).

(3) Assess the patient's nursing care needs and determine the patient's condition is stable and predictable. A patient may be stable and predictable with an order for sliding scale insulin or terminal condition.

(4) Determine the task to be delegated is within the delegating nurse's area of responsibility.

(5) Determine the task to be delegated can be properly and safely performed by the nursing assistant or home care aide. The registered nurse delegator assesses the potential risk of harm for the individual patient.

(6) Analyze the complexity of the nursing task and determine the required training or additional training needed by the nursing assistant or home care aide to competently accomplish the task. The registered nurse delegator identifies and facilitates any additional training of the nursing assistant or home care aide needed prior to delegation. The registered nurse delegator ensures the task to be delegated can be properly and safely performed by the nursing assistant or home care aide.

(7) Assess the level of interaction required. Consider language or cultural diversity affecting communication or the ability to accomplish the task and to facilitate the interaction.

(8) Verify that the nursing assistant or home care aide:

(a) Is currently registered or certified as a nursing assistant or home care aide in Washington state without restriction;

(b) Has completed both the basic caregiver training and core delegation training before performing any delegated task;

(c) Has evidence as required by the department of social and health services of successful completion of nurse delegation core training;

(d) Has evidence as required by the department of social and health services of successful completion of nurse delegation special focus on diabetes training when providing insulin injections to a diabetic client; and

(e) Is willing and able to perform the task in the absence of direct or immediate nurse supervision and accept responsibility for their actions.

(9) Assess the ability of the nursing assistant or home care aide to competently perform the delegated nursing task in the absence of direct or immediate nurse supervision.

(10) If the registered nurse delegator determines delegation is appropriate, the nurse:

(a) Discusses the delegation process with the patient or authorized representative, including the level of training of the nursing assistant or home care aide delivering care.

(b) Obtains written consent. The patient, or authorized representative, must give written, consent to the delegation process under chapter 7.70 RCW. Documented verbal consent of patient or authorized representative may be acceptable if written consent is obtained within 30 days; electronic consent is an acceptable format. Written consent is only necessary at the initial use of the nurse delegation process for each patient and is not necessary for task additions or changes or if a different nurse, nursing assistant, or home care aide will be participating in the process.

PLAN

(11) Document in the patient's record the rationale for delegating or not delegating nursing tasks.

(12) Provide specific, written delegation instructions to the nursing assistant or home care aide with a copy maintained in the patient's record that includes:

(a) The rationale for delegating the nursing task;

(b) The delegated nursing task is specific to one patient and is not transferable to another patient;

(c) The delegated nursing task is specific to one nursing assistant or one home care aide and is not transferable to another nursing assistant or home care aide;

(d) The nature of the condition requiring treatment and purpose of the delegated nursing task;

(e) A clear description of the procedure or steps to follow to perform the task;

(f) The predictable outcomes of the nursing task and how to effectively deal with them;

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

(i) How to observe and report side effects, complications, or unexpected outcomes and appropriate actions to deal with them, including specific parameters for notifying the registered nurse delegator, health care provider, or emergency services;

(j) The action to take in situations where medications and/or treatments and/or procedures are altered by health care provider orders, including:

(i) How to notify the registered nurse delegator of the change;

(ii) The process the registered nurse delegator uses to obtain verification from the health care provider of the change in the medical order; and

(iii) The process to notify the nursing assistant or home care aide of whether administration of the medication or performance of the procedure and/or treatment is delegated or not;

(k) How to document the task in the patient's record;

(l) Document teaching done and a return demonstration, or other method for verification of competency; and

(m) Supervision shall occur at least every 90 days. With delegation of insulin injections, the supervision occurs at least (~~weekly~~) every two weeks for the first four weeks, and may be more frequent.

(13) The administration of medications may be delegated at the discretion of the registered nurse delegator, including insulin injections. Any other injection (intramuscular, intradermal, subcutaneous, intraosseous, intravenous, or otherwise) is prohibited. The registered nurse delegator provides to the nursing assistant or home care aide written directions specific to an individual patient.

IMPLEMENT

(14) Delegation requires the registered nurse delegator teach the nursing assistant or home care aide how to perform the task, including return demonstration or other method of verification of competency as determined by the registered nurse delegator.

(15) The registered nurse delegator is accountable and responsible for the delegated nursing task. The registered nurse delegator monitors the performance of the task(s) to assure compliance with established standards of practice, policies and procedures and appropriate documentation of the task(s).

EVALUATE

(16) The registered nurse delegator evaluates the patient's responses to the delegated nursing care and to any modification of the nursing components of the patient's plan of care.

(17) The registered nurse delegator supervises and evaluates the performance of the nursing assistant or home care aide, including direct observation or other method of verification of competency of the nursing assistant or home care aide. The registered nurse delegator reevaluates the patient's condition, the care provided to the patient, the capability of the nursing assistant or home care aide, the outcome of the task, and any problems.

(18) The registered nurse delegator ensures safe and effective services are provided. Reevaluation and documentation occur at least every 90 days. Frequency of supervision is at the discretion of the registered nurse delegator and may be more often based upon nursing assessment.

(19) The registered nurse must supervise and evaluate the performance of the nursing assistant or home care aide with delegated insulin injection authority at least ~~((weekly))~~ every two weeks for the first four weeks. After the first four weeks the supervision shall occur at least every 90 days.

NEW SECTION

WAC 246-840-935 Nurse delegation—Blood glucose monitoring and testing in community-based and in-home settings. In community-based and in-home care settings, the registered nurse delegator may delegate blood glucose monitoring and testing only to registered or certified nursing assistants under chapter 18.88A RCW or to home care aides certified under chapter 18.88B RCW following the criteria for the setting defined in RCW 18.79.260.

AMENDATORY SECTION (Amending WSR 13-15-063, filed 7/15/13, effective 8/15/13)

WAC 246-840-940 Washington state (~~(nursing care quality assurance commission)~~) board of nursing community-based and in-home care setting delegation decision tree. In community-based and in-home care settings, before delegating a nursing task, the registered nurse dele-

gator shall decide if a task is appropriate to delegate based on the decision tree:

(1)	Does the patient reside in one of the following settings? A community-based care setting as defined by RCW 18.79.260 (3)(e)(i) or an in-home care setting as defined by RCW 18.79.260 (3)(e)(ii).	No →	Do not delegate
Yes ↓			
(2)	Has the patient or authorized representative given consent to the delegation?	No →	Obtain the written, informed consent
Yes ↓		No →	
(3)	Is RN assessment of patient's nursing care needs completed?	No →	Do assessment, then proceed with a consideration of delegation
Yes ↓			
(4)	Does the patient have a stable and predictable condition?	No →	Do not delegate
Yes ↓			
(5)	Is the task within the registered nurse's scope of practice?	No →	Do not delegate
Yes ↓			
(6)	Is the nursing assistant or home care aide, registered or certified and properly trained in the nurse delegation for nursing assistants or home care aides? Is the nursing assistant or home care aide trained in diabetes care and insulin injections when delegating insulin?	No →	Do not delegate
Yes ↓			
(7)	Does the delegation exclude the administration of medications by injection other than insulin, sterile procedures or central line maintenance?	No →	Do not delegate
Yes ↓			
(8)	Can the task be performed without requiring judgment based on nursing knowledge?	No →	Do not delegate
Yes ↓			
(9)	Are the results of the task reasonably predictable?	No →	Do not delegate
Yes ↓			
(10)	Can the task be safely performed according to exact, unchanging directions?	No →	Do not delegate
Yes ↓			
(11)	Can the task be performed without a need for complex observations or critical decisions?	No →	Do not delegate
Yes ↓			

(12)	Can the task be performed without repeated nursing assessments?	No →	Do not delegate
Yes ↓			
(13)	Can the task be performed properly?	No →	Do not delegate
Yes ↓			
(14)	Is appropriate supervision available? With insulin injections, the supervision occurs at least ((weekly)) every <u>two weeks</u> for the first four weeks.	No →	Do not delegate
Yes ↓			
(15)	There are no specific laws or rules prohibiting the delegation?	No →	Do not delegate
Yes ↓			
(16)	Task is delegable		

WSR 24-08-079A
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed April 3, 2024, 9:05 a.m.]

This memo serves as notice that the department of health (department) is withdrawing the CR-102 filed November 22, 2023, and published as WSR 23-23-186 for WAC 246-282-990 Shellfish fees.

The department is withdrawing the CR-102 because the 2024 legislature passed a budget proviso that gives the department funding to contract with an independent third-party consultant to study the commercial shellfish regulatory program and make recommendations on fees. The budget proviso prohibits the department from increasing commercial shellfish fees during fiscal year 2025.

Individuals requiring information on this rule should contact Peter Beaton, rules coordinator, at peter.beaton@doh.wa.gov.

Tami M. Thompson
Regulatory Affairs Manager