

WSR 21-04-096

PROPOSED RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed February 1, 2021, 8:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-01-001.

Title of Rule and Other Identifying Information: WAC 246-840-111, 246-840-120, 246-840-125, and 246-840-210 through 246-840-260, the nursing care quality assurance commission (commission) is proposing amendments to the continuing competency rules and requirements for active, inactive, expired, and retired active credential statuses.

Hearing Location(s): On March 12, 2021, at 1:15 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. To access the meeting: Join the meeting from your computer, tablet, or smartphone. Please register for the nursing care quality assurance commission business meeting, March 12, 1:15 p.m. PST at <https://attendee.gotowebinar.com/register/5981400842167958539>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: March 12, 2021.

Submit Written Comments to: Shad Bell, P.O. Box 47864, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-4738, by March 1, 2021.

Assistance for Persons with Disabilities: Contact Shad Bell, phone 360-236-4711, fax 360-236-4738, TTY 711, email Shad.Bell@doh.wa.gov, by March 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to WAC 246-840-111, 246-840-120, 246-840-125, and 246-840-210 through 246-840-260 update the standards, monitoring, and procedures for health care workers under these rules to successfully complete and demonstrate continuing competency. The proposed rules change the existing rules to reduce the continuing competency hours from forty-five hours every three years to eight hours annually, the active practice hours from five hundred thirty-one hours every three years to ninety-six hours annually. The retired active credential amendments for active practice hours due, change from at least ninety-six hours every three years to at least twenty-four hours annually upon renewal. The amendments also change the reporting period from a three year cycle to an annual cycle. These proposed changes are applied to the retired active rule, the active credential rule, the reactivation from expired rule, and the reactivation from inactive rule.

The proposed rule change also amends the audit requirements stating that the commission may choose to audit licensees based off a random audit, or as part of the disciplinary process. The proposed rule also strikes the existing language for extensions, as it is no longer needed due to the commission stance on audits.

Reasons Supporting Proposal: In 2017, the commission revisited a comprehensive nursing literature review of continuing competency models. A 2017 evaluation study of Washington's model concluded a lack of supporting evidence that continuing education and practice hours ensure nursing competency. The National Council State Boards of Nursing

(NCSBN) concurs and provides a 2014 consensus-based framework for determining competency measures. Because of this, the commission decided to open the continuing competency rules in order to evaluate the impact of the current continuing competency standards.

Statutory Authority for Adoption: RCW 18.79.010 and 18.79.110.

Statute Being Implemented: RCW 18.79.010.

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

Name of Proponent: Washington state nursing care quality assurance, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Shad Bell, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4711; 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 Shad Bell, P.O. Box 47864, Olympia, WA 98504, phone 360-236-4711, fax 360-236-4738, TTY 711, email Shad.Bell@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rules do not impact businesses, the proposed rules only impact provider licensing requirements.

January 29, 2021
Paula R. Meyer, MSN, RN, FRE
Executive Director
Nursing Care Quality
Assurance Commission

OTS-2383.5

AMENDATORY SECTION (Amending WSR 10-24-047, filed 11/24/10, effective 1/1/11)

WAC 246-840-111 Expired license. (1) If the license has expired for three years or less, the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the license has expired for more than three years and the practitioner has been in active practice in another United States jurisdiction, the practitioner must:

(a) Submit verification of active practice from any other United States jurisdiction;

(b) Meet the requirements of chapter 246-12 WAC, Part 2 ((†

~~(c) Meet the continuing competency requirements of WAC 246-840-201 through 246-840-207)) .~~

(3) If the license has expired for more than three years and the practitioner has not been in active practice in another United States jurisdiction, the practitioner must:

(a) Successfully complete a commission approved refresher course. The practitioner will be issued a limited educational license to enroll in the refresher course. The limited educational license is valid

only while working under the direct supervision of a preceptor and is not valid for employment as a licensed practical or registered nurse;

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

[Statutory Authority: RCW 18.79.010 and 18.79.110. WSR 10-24-047, § 246-840-111, filed 11/24/10, effective 1/1/11. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-840-111, filed 2/13/98, effective 3/16/98.]

AMENDATORY SECTION (Amending WSR 10-24-047, filed 11/24/10, effective 1/1/11)

WAC 246-840-120 Inactive credential. (1) A practitioner may obtain an inactive credential. Refer to the requirements of chapter 246-12 WAC, Part 4.

(2) Practitioners with an inactive credential for three years or less who wish to return to active status must meet the requirements of chapter 246-12 WAC, Part 4 (~~and WAC 246-840-204~~).

(3) Practitioners with an inactive credential for more than three years, who have been in active practice in another United States jurisdiction, and wish to return to active status must:

(a) Submit verification of active practice from any other United States jurisdiction;

(b) Meet the requirements of chapter 246-12 WAC, Part 4 (~~+~~

~~(c) Meet the requirements of WAC 246-840-201 through 246-840-207~~).

(4) Practitioners with an inactive credential for more than three years, who have not been in active practice in another United States jurisdiction, and wish to return to active status must:

(a) Successfully complete a commission approved refresher course. The practitioner will be issued a limited educational license to enroll in the refresher course. The limited educational license is valid only while working under the direct supervision of a preceptor and is not valid for employment as a licensed practical or registered nurse;

(b) Meet the requirements of chapter 246-12 WAC, Part 4.

[Statutory Authority: RCW 18.79.010 and 18.79.110. WSR 10-24-047, § 246-840-120, filed 11/24/10, effective 1/1/11. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-840-120, filed 2/13/98, effective 3/16/98. Statutory Authority: Chapter 18.79 RCW. WSR 97-13-100, § 246-840-120, filed 6/18/97, effective 7/19/97.]

AMENDATORY SECTION (Amending WSR 16-04-097, filed 2/1/16, effective 3/3/16)

WAC 246-840-125 Retired active credential. (1) A registered or licensed practical nurse may place their credential in "retired active" status by meeting the requirements of this section.

(2) A registered or licensed practical nurse who holds a retired active credential may only practice in intermittent or emergent circumstances.

(a) Intermittent means the registered or licensed practical nurse will practice no more than ninety days a year.

(b) Emergent means the registered or licensed practical nurse will practice only in emergency circumstances such as earthquakes, floods, times of declared war, or other states of emergency.

(3) To obtain a retired active credential a registered or a licensed practical nurse must:

(a) Meet the requirements in WAC 246-12-120.

(b) Pay the appropriate fee in WAC 246-840-990.

(4) To renew a retired active credential the registered nurse or licensed practical nurse must:

(a) Meet the requirements in WAC 246-12-130. The retired active credential fee is in WAC 246-840-990.

(b) Have completed ~~((forty-five))~~ eight hours of continuing nursing education ~~((every three years))~~ within a twelve-month period prior to the renewal of licensure in compliance with WAC 246-840-220 ~~((+2))~~ (1)(b). Education may include CPR and first aid.

(c) Demonstrate they have practiced at least ~~((ninety-six hours every three years))~~ twenty-four hours within a twelve-month period prior to the renewal of licensure. Practice may be paid or volunteer, but must require nursing knowledge or a nursing license.

(d) Renew their retired active credential every year on their birthday.

(5) To return to active status the registered or licensed practical nurse must ~~((+~~

~~(a))~~ meet the requirements in WAC 246-12-140. The active renewal fee is in WAC 246-840-990.

~~((b) Meet the continuing competency requirements in WAC 246-840-230 (5)(d).))~~

(6) A registered or licensed practical nurse who holds a retired active credential is subject to a continuing competency audit as outlined in WAC 246-840-220, 246-840-230, and 246-840-240.

[Statutory Authority: RCW 18.79.110 and 43.70.442. WSR 16-04-097, § 246-840-125, filed 2/1/16, effective 3/3/16. Statutory Authority: RCW 18.130.250 and 18.79.110. WSR 14-02-026, § 246-840-125, filed 12/20/13, effective 1/20/14.]

AMENDATORY SECTION (Amending WSR 16-04-097, filed 2/1/16, effective 3/3/16)

WAC 246-840-210 Continuing competency definitions. The definitions in this section apply throughout WAC 246-840-200 through 246-840-260 unless the context clearly requires otherwise.

(1) **"Active nursing practice"** means engagement in paid, unpaid, or volunteer activity performing acts requiring substantial nursing knowledge, judgment, and skills described under RCW 18.79.040, 18.79.050, and 18.79.060. Active nursing practice may include, but is not limited to, working as an administrator, quality manager, policy officer, public health nurse, parish nurse, home health nurse, educator, consultant, regulator, and investigator or case manager.

(2) **"Advanced nursing degree"** means education preparation beyond one's initial education for nurse licensure.

(3) **"Attestation"** means the affirmation by signature of the nurse indicating compliance with the standards and terms of the continuing competency requirements.

(4) **"Compliance audit"** means a review of documents to determine whether the nurse has fulfilled the requirements in WAC 246-840-220 through 246-840-260.

(5) **"Continuing competency"** is the ongoing ability of a nurse to maintain, update and demonstrate sufficient knowledge, skills, judgment, and qualifications necessary to practice safely and ethically in a designated role and setting in accordance with the scope of nursing practice. A nurse achieves continuing competency through active practice and continuing nursing education.

(6) **"Continuing nursing education"** refers to systematic professional learning experiences obtained after initial licensure and designed to augment the knowledge, skills, and judgment of nurses and enrich nurses' contributions to quality health care and the pursuit of professional career goals, related to a nurse's area of professional practice, growth and development.

(7) **"Nurse"** means a registered nurse and licensed practical nurse.

(8) **"Review period"** is ~~((three))~~ one full licensing renewal cycle~~((s))~~. For purposes of a compliance audit, the review period will be the ~~((three))~~ one year~~((s))~~ preceding the audit due date.

(9) **"Technical assistance"** means guidance provided by commission staff to help the nurse comply with laws and rules.

[Statutory Authority: RCW 18.79.110 and 43.70.442. WSR 16-04-097, § 246-840-210, filed 2/1/16, effective 3/3/16.]

AMENDATORY SECTION (Amending WSR 16-04-097, filed 2/1/16, effective 3/3/16)

WAC 246-840-220 Continuing competency requirements—Active status. (1) ~~((At the end of the three-year continuing competency cycle))~~ Upon license renewal a nurse must attest on a form provided by the department of health declaring completion of the required active nursing practice hours and continuing nursing education hours.

(2) ~~((The))~~ A nurse must complete~~((r))~~ within ~~((each three-year review period))~~ a twelve-month period prior to the renewal of licensure:

(a) A minimum of ~~((five hundred thirty-one))~~ ninety-six hours of active nursing practice; and

(b) A minimum of ~~((forty-five))~~ eight hours of continuing nursing education.

(3) ~~((A nurse will have a full three years to meet the requirements in subsections (1) and (2) of this section. The hours may be accumulated at any time throughout the three-year review period. The review period begins on the licensee's first birthday after receiving the initial license.~~

~~((4))~~) Nurses must complete a qualified suicide prevention training as follows:

(a) ~~((Beginning January 1, 2016,))~~ A registered nurse~~((s))~~, except for registered nurses holding an active certified registered nurse anesthetist license, and licensed practical nurses must complete a one-time, six hour training in suicide assessment, treatment, and management from a qualified suicide prevention training program. The training must be completed by the end of the first full ~~((continuing~~

~~competency reporting period after or during the first full continuing competency reporting period after initial licensure, whichever is later)) year of practice.~~

~~(b) ((Beginning July 1, 2017,)) A qualified suicide training program must be on the model list, required under RCW 43.70.442, to be accepted.~~

~~(c) ((A qualified suicide prevention training program must be an empirically supported training including assessment treatment and management, and must be at least six hours in length which may be provided in one or more sessions.~~

~~(d)) The hours spent completing a qualified training program in suicide assessment, treatment, and management under this section counts toward continuing competency requirements in subsection ((2)) (1)(b) of this section.~~

~~((5)) (4) Nurses who are enrolled in, or have completed prerequisite classes for, an advanced nursing education program are exempt from the continuing competency requirements during their current review period. ((A final transcript or transcript of classes documenting current progress towards an advanced degree will be required by the commission for approval of the exemption.))~~

[Statutory Authority: RCW 18.79.110 and 43.70.442. WSR 16-04-097, § 246-840-220, filed 2/1/16, effective 3/3/16.]

AMENDATORY SECTION (Amending WSR 16-04-097, filed 2/1/16, effective 3/3/16)

WAC 246-840-230 Continuing competency audit process and compliance. (1) The commission (~~shall~~) may conduct a compliance audit:

~~(a) ((On all late renewals if continuing competency requirements under WAC 246-840-220(2) are due;~~

~~(b)) Through random selection; and~~

~~((e)) (b) At the discretion of the commission, on nurses under the disciplinary process.~~

(2) The commission will notify a nurse selected for compliance audit at the address on record with the department. ~~((For a nurse selected randomly, notification will be sent with the renewal notice.))~~

(3) The nurse must submit continuing education in clock hours.

~~(4) ((When the nurse is unable to document compliance with WAC 246-840-220, technical assistance may be provided.~~

~~(5) If the nurse is unable to provide the required documentation of compliance with WAC 246-840-220, the nurse may elect to:~~

~~(a) Place his or her license on inactive status as outlined in WAC 246-840-120;~~

~~(b) Let his or her license expire;~~

~~(c) Request an extension under WAC 246-840-240;~~

~~(d) Enter into an agreement, on a form provided by the commission, to complete a minimum of one hundred seventy-seven hours of active nursing practice and fifteen hours of continuing nursing education within one year. A compliance audit will be conducted at the end of the year to ensure compliance with the agreement.~~

~~(6)) Failure to complete the required hours and provide the required documentation ~~(, or intentional deceit, fraud, or misconduct in reporting continuing competency may result in discipline for unprofessional conduct under)) may be considered an aggravating factor per WAC~~~~

246-16-890 in any disciplinary action for a violation of RCW 18.130.180.

[Statutory Authority: RCW 18.79.110 and 43.70.442. WSR 16-04-097, § 246-840-230, filed 2/1/16, effective 3/3/16.]

AMENDATORY SECTION (Amending WSR 16-04-097, filed 2/1/16, effective 3/3/16)

WAC 246-840-250 Continuing competency requirements—Reactivation from expired status. (1) All nurses applying for reactivation must meet the requirements of chapter 246-12 WAC, Part 2 and WAC 246-840-111.

(2) If a license is expired for more than one year, and the nurse has not held an active nursing license in any United States jurisdiction, the nurse must (~~provide evidence of five hundred thirty-one~~) complete ninety-six hours of active nursing practice (~~in any United States jurisdiction, and forty-five~~) and eight hours of continuing nursing education (~~in the last three years.~~

~~(3) If the nurse cannot provide the evidence required in subsection (2) of this section, the nurse shall agree, on the form provided by the commission, to complete a minimum of one hundred seventy-seven hours of active nursing practice and fifteen hours of continuing nursing education within the first year following reactivation. The commission will conduct an audit at the end of the year to ensure compliance with the agreement.~~

~~(4) If the practice hours and continuing nursing education hours required in this section are not completed within one year of reactivation, the commission will refer the nurse for disciplinary action) within one year of reactivation.~~

[Statutory Authority: RCW 18.79.110 and 43.70.442. WSR 16-04-097, § 246-840-250, filed 2/1/16, effective 3/3/16.]

AMENDATORY SECTION (Amending WSR 16-04-097, filed 2/1/16, effective 3/3/16)

WAC 246-840-260 Continuing competency requirements—Reactivation from inactive status. (1) All nurses applying for reactivation must meet the requirements of chapter 246-12 WAC, Part 4 and WAC 246-840-120.

(2) If a license is inactive for more than one year, and the nurse has not held an active nursing license in any United States jurisdiction, the nurse must (~~provide evidence of five hundred thirty-one~~) complete ninety-six hours of active nursing practice (~~in any United States jurisdiction, and forty-five~~) and eight hours of continuing nursing education (~~in the last three years.~~

~~(3) If the licensee cannot provide the evidence required in subsection (2) of this section, the nurse shall agree, on a form provided by the commission, to complete a minimum of one hundred seventy-seven hours of active nursing practice and fifteen hours of continuing nursing education within the first year following reactivation. The com-~~

~~mission will conduct an audit at the end of the year to ensure compliance with the agreement.~~

~~(4) If the active nursing practice hours and continuing nursing education hours required in this section are not completed within one year of reactivation, the commission will refer the nurse for disciplinary action) within one year of reactivation.~~

[Statutory Authority: RCW 18.79.110 and 43.70.442. WSR 16-04-097, § 246-840-260, filed 2/1/16, effective 3/3/16.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-840-240 Extension.