

WSR 21-04-001
NOTICE OF PUBLIC MEETINGS
BUILDING CODE COUNCIL
 [Filed January 20, 2021, 12:11 p.m.]

In accordance with RCW 42.30.075, the following is a proposed schedule of regular meetings of the Washington state building code council for calendar year 2021. All meetings begin at 10 a.m. unless otherwise noted.

If you have questions or need additional information, please contact council staff at 360-407-9255 or via email sbcc@des.wa.gov.

Date	Meeting	Location	Start Time
January-March	Legislative committee conference call meetings	Fridays as necessary. Monitor Location: Olympia	11 a.m.
Friday January 8	Council meeting	Virtual	10 a.m.
Friday February 19	Council meeting	Virtual	10 a.m.
Thursday March 18	BFP and/or MVE committee	Virtual	10 a.m.
Friday March 19	Council meeting	Virtual	10 a.m.
Thursday April 15	BFP and/or MVE committee	Virtual	10 a.m.
Friday April 16	Council meeting	Virtual	10 a.m.
Friday May 21	Council meeting	Virtual	10 a.m.
Friday June 17	BFP and/or MVE committee	To be determined	10 a.m.
Friday June 18	Council meeting	To be determined	10 a.m.
Thursday September 16	BFP and/or MVE committee	Spokane	10 a.m.
Friday September 17	Council meeting	Spokane	10 a.m.
Thursday November 18	BFP and/or MVE committee	To be determined	10 a.m.
Friday November 19	Council meeting	To be determined	10 a.m.

WSR 21-04-006

NOTICE OF PUBLIC MEETINGS

STATEWIDE REENTRY COUNCIL

[Filed January 20, 2021, 3:04 p.m.]

The Washington statewide reentry council will hold its bimonthly council meeting on Thursday, January 21st [21], 2021. The meeting will begin at 4:00 p.m. PST and last for two and a half hours, ending at 6:30 p.m. PST. Members of the public are welcome to join pursuant to the Open Public Meetings Act (chapter 42.30 RCW).

This meeting will be held on the online meeting platform, Zoom, due to COVID-19 restrictions and will be available through this link <https://wastatecommerce.zoom.us/j/82117503134?pwd=Y1BiSzRRU2s4bEsrRTRSeUM1aVppZz09>, which will also be available on our meeting schedule on the council's website. Those who cannot join online may call in at 253-215-8782, using the meeting ID 821 1750 3134 and the passcode 417034.

Please direct all questions regarding the meeting to statewide reentry council executive director, Christopher Poulos, Christopher.poulos@commerce.wa.gov, 360-701-1039.

WSR 21-04-007

NOTICE OF PUBLIC MEETINGS
RECREATION AND CONSERVATION
OFFICE

(Salmon Recovery Funding Board)
[Filed January 20, 2021, 3:42 p.m.]

Notice of Change to Regular Meeting

The salmon recovery funding board is changing the **date, time, and location** of the regular quarterly meeting scheduled for March 3-4, 2021:

FROM: March 3, 2021, and March 4, 2021, from 9:00 a.m. to 5:00 p.m., in Room 172, Natural Resources Building, 1111 Washington Street S.E., Olympia, WA.

TO: **March 3, 2021, from 9:00 a.m. to 4:40 p.m., online only**, registration link https://zoom.us/webinar/register/WN_J16gHnmkTsm83-aKjlr_4w, phone option 669-900-6833, Webinar ID 999 8213 5962.

For further information, please contact Wyatt Lundquist, Wyatt.lundquist@rco.wa.gov or check recreation and conservation office's (RCO) web page at http://www.rco.wa.gov/boards/srfb_meetings.shtml.

The RCO schedules all public meetings at barrier free sites. Persons who need special assistance may contact Leslie Frank at 360-902-0220 or email leslie.frank@rco.wa.gov.

WSR 21-04-008

AGENDA

PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed January 21, 2021, 8:36 a.m.]

Title 181 WAC
Semi-Annual Rule-Making Agenda for
January 2021 to July 2020 [2021]

Listed below is the professional educator standards board, Title 181 WAC, semi-annual rules development agenda for publication in the Washington State Register. This list identifies rules that we have under active development and rules that the agency anticipates beginning action on during the next six months.

Current information on our rule-making activity is available on our website. As circumstances warrant, there may be additional rule-making activity not on this agenda. That information will be posted on our website.

If you have questions about this agenda, Maren Johnson's email address is maren.johnson@k12.wa.us and phone is 360-867-8424.

WAC Citation	Subject Matter of Rule	Activity
181-78A	Review system and program standards for school counselor and school psychologist preparation programs.	CR-101 anticipated January 2021. CR-102 anticipated June 2021.
181-77, 181-77A, 181-78A, 181-79A, and 181-80	Clarification and reorganization of WAC language on educator preparation program standards. Changes are nonsubstantive.	CR-102 January 2021. CR-103P anticipated March 2021.
181-79A-213 and 181-79A-226	Nonsubstantive update to numbering in WAC citation for issues of abuse coursework requirement for administrators and educational staff associates.	CR-105 January 2021. CR-103P March 2021.
Title 181	Rule making to reflect recommendations from the educator professional growth workgroup on specialty endorsements and educator professional learning.	CR-101 January 2021. CR-102 anticipated July 2021.
181-77, 181-79A, 181-82, 181-82A, and 181-85	Credentialing for educators of the blind, visually impaired, deaf, hard of hearing.	CR-102 anticipated January 2021. CR-103P anticipated March 2021.
181-79A-118	Extension of educator permits in response to pandemic closures.	CR-103P January 2021.
181-97	Excellence in teacher preparation award. Repeal WAC for which RCW has already been repealed. No material change.	CR-103P anticipated February 2021.
181-77, 181-79A, and 181-85	Residency, professional, and career level benchmarks for educators. Clarification and technical changes regarding existing policy for educator certificate renewal and reissuance.	CR-102 anticipated June 2021.

Maren Johnson
Rules Coordinator

WSR 21-04-009

AGENDA

PARAEDUCATOR BOARD

[Filed January 21, 2021, 8:45 a.m.]

Title 179 WAC
Semi-Annual Rule-Making Agenda for
January to July 2021

The paraeducator board, Title 179 WAC, is submitting the semi-annual rules development agenda for publication in the Washington State Register.

Between January and July 2021, the board does not have rules under active development or anticipate beginning action. Current information on our rule-making activity is available on our website.

As circumstances warrant, there may be unanticipated rule-making activity. As required, we will update our website with appropriate information.

If you have questions about this agenda, Jack Busbee's email address is jack.busbee@k12.wa.us, and phone is 360-867-8034.

Jack Busbee
Rules Coordinator

WSR 21-04-011
NOTICE OF PUBLIC MEETINGS
MILITARY DEPARTMENT
 [Filed January 21, 2021, 2:43 p.m.]

2021 Emergency Management Advisory Group Meeting Schedule

The following is the schedule of regular meetings for the Washington state military department emergency management council's emergency management advisory group for 2021.

Date	Time	Location
February 4, 2021	1:00 - 4:00 p.m.	Microsoft Teams 253-372-2181 727881212#
April 1, 2021	1:00 - 4:00 p.m.	Microsoft Teams 253-372-2181 727881212#
June 3, 2021	1:00 - 4:00 p.m.	Microsoft Teams 253-372-2181 727881212#
August 5, 2021	1:00 - 4:00 p.m.	Microsoft Teams 253-372-2181 727881212#
October 7, 2021	1:00 - 4:00 p.m.	Microsoft Teams 253-372-2181 727881212#
December 2, 2021	1:00 - 4:00 p.m.	Microsoft Teams 253-372-2181 727881212#

Please refer to the <https://mil.wa.gov/emergency-management-advisory-group> website. Calendar information and agendas are posted on this page.

WSR 21-04-012

AGENDA

OFFICE OF

FINANCIAL MANAGEMENT

[Filed January 21, 2021, 3:16 p.m.]

SEMI-ANNUAL RULE-MAKING AGENDA

JANUARY - JUNE 2021

Following is the office of financial management's (OFM) semi-annual rule-making agenda for publication in the Washington State Register. This list identifies rules under development and rules with anticipated rule-making action during the next six months.

This agenda is available on OFM's website at <https://ofm.wa.gov/about/rule-making-activities>. The information on the OFM website is updated as rule-making notices are filed. If OFM should begin rule-making activities for a rule not listed on the attached agenda, that information will also be posted.

If you have any questions, please feel free to contact Roselyn Marcus at Roselyn.Marcus@ofm.wa.gov or 360-902-0434. If you have specific questions about state personnel rules, these can readily be addressed by Brandy Chinn with OFM rules and appeals. Brandy can be reached at Brandy.Chinn@ofm.wa.gov or at 360-407-4141.

WAC Citation	Subject Matter/ Purpose of Rule	Current Activity/ Approximate Filing Date
357-01-220 357-01-225 357-58-120 357-58-300	Washington Minimum Wage Act, amend sections to align with the changes to chapter 49.46 RCW.	CR-102 filing anticipated in April.
357-31-330	Leave without pay (LWOP), amend section to allow an employer to grant LWOP for risks related to coronavirus disease 2019.	CR-102 filing anticipated in April.

Roselyn Marcus
Assistant Director

WSR 21-04-013
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF COMMERCE
(Tourism Marketing Authority)
[Filed January 21, 2021, 3:22 p.m.]

Following is the schedule of regular meetings for the Washington tourism marketing authority for 2021:

Date	Time	Location
January 28, 2021	11 [a.m.]-2:00 p.m.	Zoom Meeting ID: 884 4571 5296
April 29, 2021	11 [a.m.]-2:00 p.m.	Zoom Meeting ID: 878 5924 4239
July 29, 2021	11 [a.m.]-2:00 p.m.	Zoom Meeting ID: 883 3842 1010
October 28, 2021	10 [a.m.]-5:00 p.m.	Wenatchee, Workshop
October 29, 2021	9 [a.m.]-2:00 p.m.	Wenatchee

If you need further information contact Lynn Longan, Department of Commerce, 1011 Plum Street S.E., P.O. Box 42525, Olympia, WA 98504-2525, 360-490-1950, lynn.longan@commerce.wa.gov, www.commerce.wa.gov.

WSR 21-04-014

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed January 22, 2021, 7:07 a.m.]

NOTICE OF ADOPTION OF A POLICY STATEMENT

Title of Policy Statement: Enforcement of USP Chapters <800> and <825>. Policy Number: 65.

Issuing Entity: Pharmacy quality assurance commission.

Subject Matter: This policy clarifies the pharmacy quality assurance commission's approach to United States Pharmacopeia chapters <800> and <825> as it relates to WAC 246-945-100 and RCW 18.64.270(2).

Effective Date: October 1, 2020.

Contact Person: Lindsay Trant, Rules and Legislative Consultant, Pharmacy Quality Assurance Commission, Washington State Department of Health, 360-236-2932, PharmacyRules@doh.wa.gov.

WSR 21-04-015

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed January 22, 2021, 7:07 a.m.]

NOTICE OF ADOPTION OF A POLICY STATEMENT

Title of Policy Statement: Regulation of the Handling of Hazardous Drugs. Policy Number 60.1.

Issuing Entity: Pharmacy quality assurance commission.

Subject Matter: This policy establishes the approach of the pharmacy quality assurance commission as it relates to direct conflicts between United States Pharmacopeia chapters <797> and <800>. This policy also attempts to clarify uncertainty related to USP 797, USP 800 and the Washington state department of labor and industries' general occupational health standards rules on hazardous drugs (WAC 296-62-500 *et al*).

Effective Date: October 1, 2020.

Contact Person: Lindsay Trant, Rules and Legislative Consultant, Pharmacy Quality Assurance Commission, Washington State Department of Health, 360-236-2932, PharmacyRules@doh.wa.gov.

WSR 21-04-018
NOTICE OF PUBLIC MEETINGS
STATE INVESTMENT BOARD
 [Filed January 22, 2021, 12:45 p.m.]

The following is a correction to the date and location of a 2021 regular meeting of the Washington state investment board (WSIB).

Original Date	Time	Location
July 13-15, 2021	1:00 p.m.	To be determined
Revised Date	Revised Time	Revised Location
July 20-22, 2021	1:00 p.m.	To be determined
*If unable to meet in person, public access will be available via teleconference. Details can be found on the WSIB website at www.sib.wa.gov .		

If you need further information contact Stacy Conway, WSIB, P.O. Box 40916, Olympia, WA 98504-0916, phone 360-956-4612, email Stacy.Conway@sib.wa.gov, website www.sib.wa.gov.

WSR 21-04-022
NOTICE OF PUBLIC MEETINGS
BOARD OF
PILOTAGE COMMISSIONERS

[Filed January 25, 2021, 10:27 a.m.]

2021 MEETING SCHEDULE

The Washington state board of pilotage commissioners typically meets on the third Thursday of each month, except for November and December, unless otherwise noted below, rescheduled, or canceled. Meetings are held at 2901 Third Avenue, Seattle, WA, and/or virtually. Meeting times are subject to change.

* Special Meeting for the 2021 Washington state marine pilot exam.

** *To accommodate the increased need for pilots, meetings will be adjusted during cruise season as noted below.*

In accordance with RCW 42.30.075, this schedule of regular meeting dates for the board of pilotage commissioners is filed with the office of the code reviser for publication in the Washington State Register.

January 21	10:00 a.m.
February 18	10:00 a.m.
March 18	10:00 a.m.
*April 7	To be determined
April 19	10:00 a.m.
**May 25	12:00 p.m.
**June 22	12:00 p.m.
**July 20	12:00 p.m.
**August 17	12:00 p.m.
**September 28	12:00 p.m.
**October 26	12:00 p.m.
November 18	10:00 a.m.
December 9	10:00 a.m.

WSR 21-04-025

HEALTH CARE AUTHORITY

[Filed January 25, 2021, 4:03 p.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 21-0010 Applied Behavioral Analysis Services.

Effective Date: [None supplied by the agency.]

Description: The health care authority (HCA) intends to submit SPA 21-0010 to comply with a December 11, 2020, Thurston County Superior Court order in the case of *J.C., et al v. Washington State Health Care Authority*. The court order instructs HCA to cover medically necessary applied behavior analysis (ABA) therapy to treat autism spectrum disorder for medicaid managed care organization clients over the age of twenty. Currently the medicaid state plan limits ABA services to clients in the early and periodic screening, diagnosis, and treatment program, which is limited to clients age twenty and younger; SPA 21-0010 is being submitted to remove that limitation.

HCA anticipates SPA 21-0010 will increase payments/expenditures between \$300,000 and \$400,000 in state fiscal year 2021.

HCA is in the process of developing the SPA. HCA would appreciate any input or concerns regarding this SPA. To request a copy of the SPA when it becomes available or submit comments, you may contact the people named below (please note that all comments are subject to public review and disclosure, as are the names of those who comment).

Contact Annette Schuffenhauer, Legal Services, P.O. Box 42716, Olympia, WA 98504, phone 360-725-1254, TRS 711, email annette.schuffenhauer@hca.wa.gov.

WSR 21-04-027

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed January 25, 2021, 5:08 p.m.]

Prevailing Rate of Wage Publication

Pursuant to RCW 39.12.015, 39.12.020, and WAC 296-127-011, on February 1, 2021, the industrial statistician will determine and publish on the internet the statewide prevailing rates of wage. These rates become effective thirty days from publication on March 3, 2021.

For more information on prevailing wage or a copy of the rates, please visit our website at <https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/> or call 360-902-5335.

Tracy West
Rules Coordinator

**WSR 21-04-030
INTERPRETIVE STATEMENT
LIQUOR AND CANNABIS
BOARD**

[Filed January 26, 2021, 9:59 a.m.]

NOTICE OF ADOPTION OF AN INTERPRETIVE STATEMENT

Title of Interpretive Statement: CBD Retail Sales in Licensed I-502 Stores - Interpretive Statement Number IS-21-01.

Issuing Entity: Washington state liquor and cannabis board.

Subject Matter: Clarifies and confirms the way that cannabidiol products may be sold in licensed retail locations.

Effective Date: January 26, 2021.

Contact Person: Katherine Hoffman, policy and rules manager, 360-664-1622.

WSR 21-04-031
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed January 26, 2021, 11:25 a.m.]

Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

Economic Services Administration
Division of Child Support (DCS)

Document Title: DCS Administrative Policy 7.01: IRS Confidentiality and Security.

Subject: IRS confidentiality and security.

Effective Date: January 22, 2021.

Document description: This DCS administrative policy explains DCS's procedures to comply with IRS guidelines in order to participate in the IRS tax refund offset program.

To receive a copy of the interpretive or policy statements, contact Rachel Shaddox, DCS, P.O. Box 11520, Tacoma, WA 98411-5520, phone 360-664-5073, TDD/TTY 800-833-6384, fax 360-664-5342, email Rachel.Shaddox@dshs.wa.gov, website <http://www.dshs.wa.gov/dcs/>.

WSR 21-04-033

AGENDA

DEPARTMENT OF HEALTH

[Filed January 26, 2021, 1:17 p.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 20-05 issue of the Register.

WSR 21-04-034

NOTICE OF PUBLIC MEETINGS

BEEF COMMISSION

[Filed January 26, 2021, 1:18 p.m.]

2021 Meeting Schedule

(All meetings begin at 9:00 a.m.)

The Washington state beef commission will meet in 2020 [2021] as indicated below.

January 21, 2021 Thursday	Regular meeting	Virtual
March 31-April 1, 2021 Wednesday/Thursday	Strategic planning meeting	To be determined
April 29, 2021 Thursday	Budget meeting	Ellensburg
June 3, 2021 Thursday	Annual meeting	Ellensburg
September 9, 2021 Thursday	Regular meeting	Ellensburg
November 11, 2021 Thursday	Regular meeting	To be determined

If you have any questions or need more information, please contact us at 206-444-2902.

WSR 21-04-035

AGENDA

DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed January 26, 2021, 1:51 p.m.]

Following is the department of children, youth, and families (DCYF) semi-annual rule-making agenda for January 1 through June 30, 2021. This agenda will be published in the Washington State Register as required in RCW 34.05.314 and distributed to interested parties. It is also available on the DCYF rule-making internet page.

This agenda represents DCYF rule making that is anticipated or under development at this time. There may be additional rule-making activities needed to implement legislative actions, comply with federal mandates, or meet unforeseen circumstances.

Semi-Annual Rule-Making Agenda
January 1 - June 30, 2021

WAC Sections	Subject Matter	CR-101 Filings	CR-102 or CR-105 Filings	CR-103E Filings
Chapter 110-03	Administrative Hearings: Amending rules to allow de novo review when a petition for review does not identify specific grounds the petitioner is disputing.			
New chapter	Background Checks: Establishing new rules to implement chapter 270, Laws of 2020, Certificates of parental involvement.	WSR 19-20-096 Filed 10/1/2019		
Chapters 110-04 and 110-06	Background Checks: Amending rules to revise criminal convictions that may disqualify an individual from being licensed, contracted, certified, or authorized to have unsupervised access to children or trigger further review to determine the applicant's character, suitability, and competence to have unsupervised access to children. Rule making will also implement chapter 9.97 RCW to explain when certificates of restoration of opportunity (CROP) will be included in criminal history record reports, qualifying letters, or other assessments during a background check, and under what circumstances a CROP will not apply.	WSR 19-20-096 Filed 10/1/2019		
Chapter 110-15	Working Connections and Seasonal Child Care: Amending rules to implement chapter 330, Laws of 2020, which grants eligibility to certain teen parents enrolled in high school or an equivalency program.		Anticipated	
110-15-0003, 110-15-0040, and 110-15-0045	Working Connections Child Care: Amending rules to implement chapter 406, Laws of 2019, which relieves single parent participants from the work requirement if they are enrolled in specific education programs, meet their college's definition of a full-time student, maintain passing grades, and are in good standing pursuant to their college's attendance requirements.		WSR 21-01-184	
110-15-0280	Working Connections and Seasonal Child Care: Amending rules to align with DCYF's administrative hearing rules chapter 110-03 WAC.			WSR 20-24-030

110-15-4500 through 110-15-4580	Working Connections and Seasonal Child Care: Amending rules to better explain when and for whom DCYF provides child care, the child care rates that may be paid, and the tax responsibility for those payments.		Anticipate filing	
Chapters 110-16 and 110-06	Licensing—License—Exempt Child Care: Amending rules to ensure license-exempt family, friends, and neighbors child care providers fully comply with child care and development fund (CCDF) background checks, as well as, health and safety requirements.	WSR 20-14-004 Filed 6/17/2020		
Chapters 110-145, 110-147, and 110-148	Licensing: Amending rules to better address the needs of and promote culturally relevant service delivery to LGBTQ+ identifying children and youth served by the department.	WSR 20-10-082 Filed 5/4/2020		
110-145-1425, 110-145-1430, 110-145-1440, 110-145-1445, 110-145-1450, 110-145-1460, 110-145-1475, 110-145-1490, and 110-145-1725	Licensing—Group Care: At the request of stakeholders, DCYF is reviewing education and professional development required for certain staff positions within licensed programs.	WSR 21-01-032 Filed 12/7/2020		
Chapter 110-300	Licensing—Early Learning/Child Care: DCYF is considering amending rules to better clarify emergency exit requirements and update immunization requirements necessary to align chapter 110-300 WAC with the department of health's rules.	Anticipate filing		
Chapter 110-300	Licensing—Early Learning/Child Care: DCYF intends to amend rules to make technical corrections to chapter 110-300 WAC, the need for which has emerged since the chapter was adopted in 2018.			
Chapter 110-305	Licensing—School-Age Early Learning/Child Care: Amending rules to align school-age child care licensing rules with chapter 110-300 WAC.	WSR 19-24-033 Filed 11/25/2019		
New chapter	Relative Guardianship Assistance: Establishing new rules for eligibility, application, and program standards consistent with 42 U.S.C. 673 to ensure relative guardianship subsidy payments comply with guidelines for expenditure of federal grant monies. Rules will clarify the application process, program standards, and the process for adjudicating denied applications.	WSR 20-15-092 Filed 7/15/2020		
Title 110 WAC	COVID-19: DCYF anticipates emergency rule making in response to COVID-19 developments and to implement related governor's proclamations.			

Brenda Villarreal
Rules Coordinator

WSR 21-04-040

AGENDA

HUMAN RIGHTS COMMISSION

[Filed January 26, 2021, 5:57 p.m.]

Pursuant to RCW 34.05.314, the human rights commission submits its semi-annual agenda for rules that will be under development in 2021: Public access to records, WAC 162-04-030.

Laura Lindstrand
Policy Analyst

WSR 21-04-043

**UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed January 27, 2021, 9:22 a.m.]

Under the Preproposal statement of inquiry (CR-101) filed on October 4, 2019, with the Washington state office of the code reviser, the Washington utilities and transportation commission (commission) issued a rule adoption order on December 28, 2020, amending chapter 480-109 WAC.

The commission is providing notice that there will be no additional rule-making action under this CR-101 and that it is closing Docket UE-190652.

The commission has provided notice of these developments to interested persons in Docket UE-190652.

If you have questions, you may contact Andrew Rector, regulatory analyst, by email at andrew.rector@utc.wa.gov, or by calling 360-664-1315.

Mark L. Johnson
Executive Director
and Secretary

WSR 21-04-044

INTERPRETIVE STATEMENT

DEPARTMENT OF REVENUE

[Filed January 27, 2021, 10:07 a.m.]

INTERPRETIVE STATEMENT ISSUED

The department of revenue has issued the following excise tax advisory (ETA):

ETA 3132.2021 *Casual Sales of Motor Vehicles*

This excise tax advisory explains the application of retail sales tax or use tax on casual sales of motor vehicles. The ETA is being updated to reflect a change arising from 2020 legislation. The legislation added a new exception to the usual requirement that use tax must be collected on an application for transfer of vehicle title; use tax is not required to be collected if the applicant for title transfer presents a valid reseller permit. In addition to adding this new exception, some general clarifying changes were made.

A copy of this document is available via the internet at Rule and Tax Advisory Adoptions and Repeals.

Atif Aziz
Tax Policy Manager
Rules Coordinator

WSR 21-04-045
NOTICE OF PUBLIC MEETINGS
FRUIT COMMISSION
[Filed January 27, 2021, 11:13 a.m.]

2021

CHANGE OF TIME/LOCATION - COMMISSION MEETING
Memorandum—January 27, 2021

Due to the governor's proclamation and social distancing guidelines, the following scheduled meeting has been CHANGED from in-person to:

March 10, 2021 10:00 a.m. Conference call/
webinar meeting

The Washington state fruit commission (WSFC) complies with the Americans with Disabilities Act. These meetings are open to all persons without regard to race, color, national origin, gender, religion, age, or disability. Persons who are interested in listening in, or require alternative means of communication (such as Braille, large print, sign language) or language interpretation or special accommodations, should contact WSFC at 509-453-4837 at least four business days before the meeting.

If there are any questions regarding the 2021 meeting schedule, please contact WSFC offices at 509-453-4837.

WSR 21-04-052
NOTICE OF PUBLIC MEETINGS
RECREATION AND CONSERVATION
OFFICE

[Filed January 27, 2021, 2:05 p.m.]

In accordance with Gubernatorial Proclamation 2020-28, the habitat and recreation lands coordinating group is changing the **location** of the regularly scheduled meeting on February 24, 2021:

FROM: Habitat and Recreation Lands Coordinating Group regular meeting, on February 24, 2021, from 9:00 to 11:00 a.m., at Natural Resource Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98501.

to: Habitat and Recreation Lands Coordinating Group regular meeting, on February 24, 2021, from 9:00 to 11:00 a.m., **online meeting and attendance via Zoom**, phone number 669-900-6833, meeting ID 91970657694.

For further information, please contact Wyatt Lundquist, Board Liaison, 1111 Washington Avenue [Street] S.E., P.O. Box 40917, Olympia, WA 98504-0917, phone 360-819-3345, fax 360-902-3026, Julia.McNamara@rco.wa.gov, www.rco.wa.gov; or Wendy Brown, Policy Director, 1111 Washington Avenue [Street] S.E., P.O. Box 40917, Olympia, WA 98504-0917, phone 360-902-3021, fax 360-902-3026, Wendy.Brown@rco.wa.gov, www.rco.wa.gov.

The recreation and conservation office schedules all public meetings at barrier free sites. Persons who need special assistance may contact Leslie Frank at 360-902-0220 or email at Leslie.Frank@rco.wa.gov.

WSR 21-04-053

HEALTH CARE AUTHORITY

[Filed January 27, 2021, 2:13 p.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 21-0011
Consumer Directed Employer Supplemental Notice.

Effective Date: October 1, 2021.

Description: In 2018, the Washington state legislature passed SB 6199, authorizing the creation of a consumer directed employer program. To implement this program, the health care authority (HCA) in conjunction with the aging and long-term support administration (ALTSA) in the department of social and health services intended to submit medicaid SPA 20-0023 selective contracting, which would apply to certain home and community-based (HCBS) programs, effective July 1, 2021. Notice was filed in the Washington State Register under WSR 20-23-0002. Submission of SPA 20-0023 was delayed; therefore HCA and ALTSA intend to submit SPA 21-0011, which will apply to the following HCBS programs effective October 1, 2021:

- 1915(k) community first choice state plan option.
- Optional state plan personal care services.

SPA 21-0011 is expected to have no effect on payment to individual providers.

SPA 21-0011 is in the development process; therefore a copy is not yet available for review. HCA and ALTSA would appreciate any input or concerns regarding this SPA. To request a copy when it becomes available, you may contact the person named below. To submit comments, please contact the person named below (please note that all comments are subject to public review and disclosure, as are the names of those who comment).

Contact Jamie Tong, Waiver Program Manager, 4450 10th Avenue S.E., Lacey, WA 98504, phone 360-725-3293, TTY 711, email Jamie.tong@dshs.wa.gov.

WSR 21-04-058

INTERPRETIVE STATEMENT

DEPARTMENT OF HEALTH

[Filed January 28, 2021, 9:48 a.m.]

NOTICE OF ADOPTION OF AN INTERPRETIVE STATEMENT

Title of Interpretive Statement: Novel coronavirus disease 2019 (COVID-19) vaccine ordering and administration. Policy number: DQAC IS-02.

Issuing Entity: Dental quality assurance commission.

Subject Matter: The ordering and administration of the coronavirus disease 2019 (COVID-19) vaccination can be within the scope of practice of a dentist licensed under chapter 18.32 RCW when the treating dentist has appropriate, verifiable training and experience that includes a hands-on component.

Effective Date: January 7, 2021.

Contact Person: Jennifer Santiago, Program Manager, Health Systems Quality Assurance, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4893, email Jennifer.santiago@doh.wa.gov.

WSR 21-04-063

AGENDA

DEPARTMENT OF CORRECTIONS

[Filed January 28, 2021, 4:56 p.m.]

Following is the department of corrections' semi-annual rule development agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

RULE DEVELOPMENT CALENDAR
January 1 - June 30, 2021

WAC Chapter or Section	Purpose
137-08	Public records—Disclosure.
137-24	Special drug sentencing alternative revocation hearings.
137-25	Serious violations—Total and partial confinement facilities.
137-28	Discipline—Prisons.
137-30	Earned release time.
137-78	Employee assault benefits.
381	Indeterminate sentence review board.

Vadim V. Chebotar
Rules Coordinator

WSR 21-04-064

AGENDA

LIQUOR AND CANNABIS
BOARD

[Filed January 29, 2021, 8:05 a.m.]

Pursuant to RCW 34.05.314, this report describes current and anticipated rule development activities for the liquor and cannabis board (LCB). If you have any questions regarding this report or LCB rule development activities, please contact Katherine Hoffman, LCB policy and rules manager, at 360-664-1622 or katherine.hoffman@lcb.wa.gov.

This agenda is for informational purposes, and the noted dates of anticipated rule-making actions are estimates. Any errors in the agenda do not affect the rules and rule-making notices filed with the office of the code reviser and published in the Washington State Register. There may be additional LCB rule development activities that cannot be forecasted as the agency initiates rule making to implement new state laws, meet federal requirements, or meet unforeseen circumstances. The "**Key**" below explains terms and acronyms.

KEY:

CR: "Code reviser" on the notice forms created by the office of the code reviser for use by all state agencies.

CR-101: Preproposal statement of inquiry filed under RCW 34.05.310.

CR-102: Proposed rule-making notice filed under RCW 34.05.320 or 34.05.340.

CR-103: Rule-making order permanently adopting a rule, and filed under RCW 34.05.360 and 34.05.380.

RCW: Revised Code of Washington.

WAC: Washington Administrative Code.

WSR: Washington State Register official filing reference number given by the office of the code reviser when a notice is filed.

**Liquor Related Rule Development Agenda
January 1 - June 30, 2021**

RCW/ SESSION LAW	RULE TITLE	CR-101	CR-101 WSR#	CR-102	CR-102 WSR#	CR-103	CONTACT	PHONE
RCW 66.24.240, 66.24.244, 66.28.200, 66.28.210; and 66.28.220 as amended by HB 2412 (chapter 230, Laws of 2020); chapter 66.24 RCW, new section added by ESSB 5006 (chapter 186, Laws of 2020); RCW 66.28.310 and RCW 66.24.395 as amended by ESSB 6095 (chapter 200, Laws of 2020); and chapter 66.24 RCW, new section added by SSB 6392 (chapter 210, Laws of 2020)	Chapter 314 WAC, LCB is considering establishing new rule sections and amending existing rule sections to implement the requirements of alcohol-related legislation enacted during the 2020 legislative session, including HB 2412 (chapter 230, Laws of 2020), ESSB 5006 (chapter 186, Laws of 2020), ESSB 6095 (chapter 200, Laws of 2020), and SSB 6392 (chapter 210, Laws of 2020).	7/22/2020	20-15-160	11/18/2020	20-23-125	1/20/2021 WSR 21-03-095	Audrey Vasek	360-664-1758
RCW 66.08.030, 66.24.140, 66.24.145	Chapter 314-28 WAC, Distillers, LCB is considering revisions to chapter 314-28 WAC to add alternating proprietorship requirements for distilleries and craft distilleries.	11/13/2019	19-23-044	Anticipated		Anticipated	Audrey Vasek	360-664-1758
RCW 66.08.030, 66.08.050, and E2SSB 5549 (section 12, chapter 238, Laws of 2020)	Chapter 314-28 WAC, Distillers, LCB is considering establishing new rule sections and amending existing rule sections to implement the directives and requirements of E2SSB 5549 (chapter 238, Laws of 2020).	8/5/2020	20-16-150	12/23/2020	21-01-211	2/17/2021 (Anticipated)	Audrey Vasek	360-664-1758

**Cannabis Related Rule Development Agenda
January 1 - June 30, 2021**

RCW/ SESSION LAW	RULE TITLE	CR-101	CR-101 WSR#	CR-102	CR-102 WSR#	CR-103	CONTACT	PHONE
RCW 69.50.342, 69.50.345, and 69.50.331 as amended by SSB 6206 (chapter 154, Laws of 2020)	WAC 314-55-020 Marijuana license qualifications and application process—Licensing change requests, LCB is considering a rule amendment to establish a certificate of compliance for marijuana business premises consistent with SSB 6206 (chapter 154, Laws of 2020).	7/8/2020	20-15-043	10/28/2020	20-22-042	1/6/2021 WSR 21-02-096	Casey Schaufler	360-664-1760

RCW/ SESSION LAW	RULE TITLE	CR-101	CR-101 WSR#	CR-102	CR-102 WSR#	CR-103	CONTACT	PHONE
RCW 69.50.342, as amended by HB 2826 (chapter 133, Laws of 2020); and RCW 69.50.345	Chapter 314-55 WAC, Marijuana licenses, application process, requirements, and reporting, LCB is considering establishing new and amending existing sections of rule to implement the directives and requirements of HB 2826 (chapter 133, Laws of 2020) concerning marijuana vapor products.	7/8/2020	20-15-041	12/9/2020	21-01-058	2/17/2021 (Anticipated)	Casey Schaufler	360-664-1760
RCW 69.50.342, 69.50.345	WAC 314-55-075, Marijuana producer license—Privileges, requirements, and fees, LCB is considering revisions and new rule sections that would incrementally expand the plant canopy square footage allowed for licensed Tier 1 producers.	12/18/2019	20-01-171	Anticipated		Anticipated	Casey Schaufler	360-664-1760
RCW 69.50.342, 69.50.345	WAC 314-55-101, Quality assurance sampling protocols, 314-55-102 Quality assurance testing (effective until February 28, 2021), new WAC 314-55-1021 Quality assurance and quality control (effective March 1, 2021, until August 31, 2021), new 314-55-1022 Quality assurance and quality control (effective September 1, 2021), and 314-55-1025 Proficiency testing. LCB proposes amendments and new sections to current marijuana product testing standards that would require the addition of pesticide and heavy metal testing for all marijuana products produced, processed, and sold in Washington state.	8/8/18	18-17-041	9/30/2020 (Supplemental)	20-20-400	Anticipated	Casey Schaufler	360-664-1760

WSR 21-04-068

AGENDA

DEPARTMENT OF REVENUE

[Filed January 29, 2021, 10:24 a.m.]

**Semi-Annual Rule-Making Agenda
January 1 - June 30, 2021**

Following is the department of revenue's (department) semi-annual rule-making agenda for publication in the Washington State Register. This list identifies rules the department is currently working on and rules the department anticipates working on during the next six months.

The department's rule-making agenda is also available on its website. The information on the site is continually updated as the department files rule-making notices, or otherwise adds or deletes rules that it anticipates some action over the next six months, including rules added or deleted as a result of resource allocation, legislation, court decisions, or changes in rule-making priorities.

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-16-266 Homeownership development	Leslie Mullin	CR-101 Filed: 1/8/2019 WSR 19-03-043 Public Meeting: 12/6/2018 at 10:00 a.m. Anticipate second CR-101 in 3rd quarter of 2021	Anticipate CR-102 in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	Recognize 2018 legislation
WAC 458-14-127 Reconvened boards—Authority	Leslie Mullin	CR-101 Filed: 12/6/2017 WSR 17-24-126 Public Meeting: 1/10/2018 at 10:00 a.m. Anticipate second CR-101 in 2nd quarter of 2021	Anticipate CR-102 in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	General updates and to recognize 2015 and 2016 legislation
WAC 458-19-085 Refunds—Procedures—Applicable limits	Leslie Mullin	Anticipate CR-101 in the 2nd quarter of 2021	Anticipate CR-102 in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	Recognize 2017 and 2018 legislation
WAC 458-19-550 State levy—Apportionment between cities	Leslie Mullin	Anticipate CR-101 in the 3rd quarter of 2021	Anticipate CR-102 in the 4th quarter of 2021	Anticipate adoption in the 1st quarter of 2022	Recognize 2017 and 2018 legislation
WAC 458-20-136 Manufacturing, processing for hire, fabricating	Matthew Largent	Anticipate CR-101 and public meeting in the 3rd quarter of 2021	Anticipate CR-102 and public hearing in the 4th quarter of 2021	Anticipate adoption in the 1st quarter of 2022	General updates
WAC 458-20-13601 Manufacturers and processors for hire—Sales and use tax exemptions for machinery and equipment	Matthew Largent	CR-101 Filed: 4/4/2017 WSR 17-08-077 Public Meeting: 4/19/2017 at 10:00 a.m. Anticipate second CR-101 filing and additional public meeting in the 3rd quarter of 2021	CR-102 Filed: 5/19/2017 WSR 17-11-090 Public Hearing: 6/29/2017 at 10:00 a.m. Anticipate second CR-102 filing and additional public hearing in the 4th quarter of 2021	Anticipate adoption in the 1st quarter of 2022	General updates
WAC 458-20-15503 Digital products	Katie Koontz	CR-101 Filed: 2/6/2018 WSR 18-04-093 Public Meeting: 3/22/2018 at 1:00 p.m. Anticipate second CR-101 filing and additional public hearing in the 2nd quarter of 2021	Anticipate CR-102 and public hearing in the 3rd quarter of 2021	Anticipate adoption in the 1st quarter of 2022	General updates

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-20-18301 Athletic and fitness facilities	Leslie Mullin	Anticipate CR-101 and public meeting in 4th quarter of 2021	Anticipate CR-102 and public hearing in the 1st quarter of 2022	Anticipate adoption in the 2nd quarter of 2022	New rule to recognize 2015 and 2017 legislation
WAC 458-20-19402 Single factor receipts apportionment—Generally	Wan Chen	CR-101 Filed: 7/31/2017 WSR 17-16-113 Public Meeting: 9/11/2017 at 1 p.m. Anticipate second CR-101 filing and additional public meeting in the 3rd quarter of 2021	Anticipate CR-102 and public hearing in the 4th quarter of 2021	Anticipate adoption in the 1st quarter of 2022	General updates
WAC 458-20-282 Marketplace collecting and reporting	Darius Massoudi	CR-101 Filed: 11/3/2020 WSR 20-22-090 Public Meeting: 12/16/2020 at 10:00 a.m.	Anticipate CR-102 and public hearing in the 2nd quarter of 2021	Anticipate adoption in the 2nd quarter of 2021	New rule to recognize 2017 and 2019 legislation
WAC 458-61A-211 Mere change in identity or form—Family corporations and partnerships	Rex Munger	Anticipate CR-101 and public meeting in the 4th quarter of 2021	Anticipate CR-102 in the 1st quarter of 2022	Anticipate adoption in 2nd quarter of 2022	General updates
WAC 458-20-193 Interstate sales of tangible personal property	Tim Danforth	CR-101 Filed: 10/2/2018 WSR 18-20-095	Anticipate CR-102 and public hearing in the 2nd quarter of 2021	Emergency Filed: 9/26/2018 WSR 18-20-045 2nd Emergency Adoption: 1/31/2019 WSR 19-04-001 3rd Emergency Adoption: 5/22/2019 WSR 19-12-004 4th Emergency Adoption: WSR 19-19-079 5th Emergency Adoption: WSR 20-04-015 6th Emergency Adoption: WSR 20-12-009 Anticipate adoption in 4th quarter of 2021	Recognize Wayfair decision of 2018 and 2019 legislation
WAC 458-20-221 Collection of use tax by retailers and selling agents	Tim Danforth	CR-101 Filed: 10/2/2018 WSR 18-20-098	Anticipate CR-102 and public hearing in the 2nd quarter of 2021	Emergency Filed: 9/26/2018 WSR 18-20-045 2nd Emergency Adoption: 1/31/2019 WSR 19-04-001 3rd Emergency Adoption: 5/22/2019 WSR 19-12-004 4th Emergency Adoption: 9/17/2019 WSR 19-19-079 5th Emergency Adoption: 1/24/2020 WSR 20-04-015 6th Emergency Adoption: WSR 20-12-009 Anticipate adoption in the 4th quarter of 2021	Recognize Wayfair decision of 2018 and 2019 legislation

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-20-141 Duplicating activities and mailing bureaus	Leslie Mullin	CR-101 Filed: 3/18/2020 WSR 20-07-113 Public Meeting: 4/15/2020 at 11:00 a.m.	CR-102 Filed: 5/1/2020 WSR 20-10-068 Public Hearing: 6/10/2020 at 10:00 a.m. Anticipate second CR-102 filing and additional public hearing in the 4th quarter of 2021	Anticipate CR-103 in the 1st quarter of 2022	General updates
WAC 458-20-263 Exemptions from retail sales and use taxes for qualifying electric generating systems using renewable energy sources	Brenton Madison	Anticipate CR-101 and public meeting in the 3rd quarter of 2021	Anticipate CR-102 and public hearing in the 1st quarter of 2022	Anticipate adoption in the 2nd quarter of 2022	Recognize 2019 legislation
WAC 458-20-233 Tax liability of medical and hospital service bureaus and associations and similar health care organizations	Darius Massoudi	Anticipate CR-101 and public meeting in the 2nd quarter of 2021	Anticipate CR-102 and public hearing in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	Recognize 2019 legislation
WAC 458-20-27901 New exemptions on sales/leases of alternative fuel passenger vehicles	Leslie Mullin	Anticipate CR-101 and public meeting in the 3rd quarter of 2021	Anticipate CR-102 and public hearing in the 4th quarter of 2021	Anticipate adoption in the 1st quarter of 2022	Recognize 2019 legislation
WAC 458-XX-XXX New tax on vapor products	Miki Gearhart	Anticipate CR-101 and public meeting in the 2nd quarter of 2021	Anticipate CR-102 and public hearing in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	Recognize 2019 legislation
WAC 458-61A-XXX Exemption for sale of self-help housing	Rex Munger	Anticipate CR-101 and public meeting in the 3rd quarter of 2021	Anticipate CR-102 in the 4th quarter of 2021	Anticipate adoption in 1st quarter of 2022	Recognize 2019 legislation
WAC 458-61A-XXX New rule on Graduated REET	Brenton Madison	CR-101 Filed: 1/15/2021 WSR 21-03-054 Public Meeting: 2/16/2021 at 10:00 a.m.	Anticipate CR-102 and public hearing in the 2nd quarter of 2021	Anticipate adoption in the 2nd quarter of 2021	Recognize 2019 legislation
WAC 458-20-17001 Government contracting—Construction, installations, or improvements to government real property	Jennifer Martin	Anticipate CR-101 and public meeting in the 1st quarter of 2021	Anticipate CR-102 and public hearing in the 2nd quarter of 2021	Anticipate adoption in the 2nd quarter of 2021	General updates
WAC 458-20-171 Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic	Darius Massoudi	Anticipate CR-101 and public meeting in the 2nd quarter of 2021	Anticipate CR-102 and public hearing in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	General updates
WAC 458-20-241 Radio and television broadcasting	Tim Danforth	CR-101 Filed: 3/18/2020 WSR 20-07-112 Public Meeting: 8/3/2020 at 10:00 a.m. N/A	Anticipate CR-102 in the 3rd quarter of 2020 CR-105 Filed: 11/13/2020 WSR 20-23-052	Anticipate adoption in the 3rd quarter of 2020 Anticipate adoption in the 2nd quarter of 2021	Technical corrections
WAC 458-20-178 Use tax	Brenton Madison	Anticipate CR-101 and public meeting in the 2nd quarter of 2021	Anticipate CR-102 and public hearing in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	General update
WAC 458-20-196 Bad debts	Jennifer Arnold	Anticipate CR-101 and public meeting in the 3rd quarter of 2021	Anticipate CR-102 and public hearing in the 4th quarter of 2021	Anticipate adoption in the 1st quarter of 2022	General update
WAC 458-20-XXX New rule on advanced computing businesses	Leslie Mullin	Anticipate CR-101 and public meeting in the 1st quarter of 2021	Anticipate CR-102 and public hearing in the 2nd quarter of 2021	Anticipate adoption in the 2nd quarter of 2021	Recognize 2020 legislation
WAC 458-16-080 Improvements to single family dwellings—Definitions—Exemption—Limitation—Appeal rights	Leslie Mullin	Anticipate CR-101 and public meeting in the 2nd quarter of 2021	Anticipate CR-102 and public hearing in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	Recognize 2020 legislation

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-20-211 Leases or rentals of tangible personal property, bailments	Brenton Madison	CR-101 Filed: 9/18/2019 WSR 19-19-091 Public Meeting: 10/30/2019 at 10:00 a.m. 2nd CR-101 Filed: 5/1/2020 WSR 20-10-067 Public Meeting: 6/8/2020 at 10:00 a.m. 3rd CR-101 Filed: 11/3/2020 WSR 20-22-092 Public Meeting: 12/2/2020 at 10:00 a.m.	CR-102 Filed: 12/16/2020 WSR 21-01-131 Public Hearing: 2/2/2021 at 10:00 a.m.	Anticipate adoption in 1st quarter of 2021	General updates
WAC 458-20-228 Returns, payments, penalties, extensions, interest, stays of collection	TBD	N/A - Anticipate CR-105	Anticipate CR-105 in the 3rd quarter of 2019	Anticipate adoption in 4th quarter of 2019	Recognize 2019 legislation

Rules Requiring Periodic Updates

Rule Number and Title	Rule Drafter	Preproposal (CR-101)	Proposal (CR-102 or CR-105)	Adoption (CR-103)	Reason for Anticipated Changes
WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments	Jennifer Arnold	CR-101 Filed: 1/20/2021 WSR 21-03-091 Public Meeting: 4/20/2021 at 10:00 a.m.	Anticipate CR-102 and public hearing in the 2nd quarter of 2021	Anticipate adoption in the 2nd quarter of 2021	Semi-annual updates that are effective January 1 and July 1 of each year
WAC 458-40-540 Forest land values	Brenton Madison	Anticipate CR-101 and public meeting in the 2nd quarter of 2021	Anticipate CR-102 and public hearing in the 3rd quarter of 2021	Anticipate adoption in the 4th quarter of 2021	Semi-annual updates that are effective January 1 of each year

WSR 21-04-070

AGENDA

WASHINGTON STATE LOTTERY

[Filed January 29, 2021, 11:26 a.m.]

Pursuant to RCW 34.05.314, Washington's lottery is submitting its semi-annual agenda for rules under development for publishing in the Washington State Register.

The following report describes current lottery rules under development. Additional rule making may be deemed necessary to meet legal requirements or unforeseen circumstances.

Semi-Annual Rule-Making Agenda

January 1 - June 30, 2021

WAC	Purpose for Rule Making	CR Filing No.	Date Filed
Chapter 315-04 WAC, Licensing procedure	The proposed amendments to this chapter will provide clear and consistent direction for applicants, licensees, and staff.	WSR 21-02-048	12/31/2020
Chapter 315-06 WAC, General lottery rules	The agency is required to adopt rules no later than June 30, 2021, establishing a program that allows a person to voluntarily exclude themselves from lottery activities (SHB 1302 (2019)).	WSR 19-23-055	11/14/2019

Kristi Weeks
Director of Legal Services

WSR 21-04-075

AGENDA

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed January 29, 2021, 2:29 p.m.]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [21-05](#) issue of the Register.

WSR 21-04-077

AGENDA

DEPARTMENT OF
ENTERPRISE SERVICES

[Filed January 29, 2021, 3:09 p.m.]

Following is the department of enterprise services' (DES) semi-annual rules development agenda for publication in the Washington State Register. This list identifies rules that we have under active development and rules that the agency anticipates starting some rule-making action on during the next six months.

This agenda also is available on our rule-making website. The information is updated on our website as rule making progresses. If we start rule-making activities that [are] not listed on this agenda or stop listed rule-making activities, we immediately post that information to our rule-making website.

Jack Zeigler is available if you have questions about this agenda at email jack.zeigler@des.wa.gov.

Semi-Annual Rule-Making Agenda

January 1 through June 30, 2020

WAC Citation	Purpose of Rule Making	Current Activity/Approximate Filing Date
Chapter 200-01 WAC, Public records	Expedite rule making to: • Clarify how DES collects fees for public records requests.	DES filed an Expedited rule making CR-105 with the office of the code reviser, and subsequently published in the Washington State Register. We received no objections to the changes. We intend to adopt the proposed rules in February 2021.
Chapter 200-200 WAC, State capitol grounds traffic and parking regulations	Amend rule to: • Put in place a mechanism for quickly placing or modifying enforceable restrictions for vehicles parking on the Capitol Campus with a focus on Deschutes Parkway.	The public comment period on the Proposed rules (CR-102) has completed. We intend to adopt the rules in February 2021. Rule implementation will be delayed until April 2021.
Chapter 200-110 WAC, Self-insurance requirements as to local governments	Expedite rule making to: • Reflect transition of health care benefits for schools to the health care authority.	While work was paused due to the impacts of the pandemic, work has restarted and key stakeholders re-engaged. We intend to file an Expedited rule making CR-105. We anticipate filing before the end of July.
Chapter 200-100 WAC, Self-insurance requirements as to local governments	Amend rule to: • Allow the pilotage commission to self-insure through the local government risk pool. This change is restricted to liability coverage only. • Provide improved understanding of the rules relative to reserve levels. This clarification change will not change rule requirements.	While work was paused due to the impacts of the pandemic, work has restarted. We anticipate filing a prenotice of inquiry (CR-101) in early spring.
Chapter 200-380 WAC, Print management	Amend rule to: • Remove the print management strategy report requirement for state agencies.	We anticipate filing an Expedited rule making CR-105 with the office of the code reviser in early spring.

Jack Zeigler
Rules and Policy Manager

WSR 21-04-078

AGENDA

EMPLOYMENT SECURITY DEPARTMENT

[Filed January 29, 2021, 3:19 p.m.]

**Semi-Annual Rule-Making Agenda
January - July 2021**

The employment security department (ESD) prepares a semi-annual rule-making agenda in January and July each year to inform the public of expected upcoming rule changes. Pursuant to RCW 34.05.314, the agenda is published in the Washington State Register.

ESD encourages the public to be involved in the rule-making processes by attending public hearings and submitting comments on rules. To stay informed of our progress and be notified of any changes, please sign up for email notifications <https://public.govdelivery.com/accounts/WAESD/subscriber/new>. Additional rule-making information is available on the agency website at <https://esd.wa.gov/newsroom/rulemaking>.

Subject Matter or Division	WAC Chapter or Sections	Purpose and Scope of Rule Making	Preproposal Notice Filings (CR-101)	Proposed Rule and Public Hearing Filings (CR-102 or CR-105 Expedited)	Permanent Rule Filing (CR-103)
Unemployment insurance benefits	192-170-010, 192-170-020, 192-170-050, 192-170-070, 192-170-090, 192-200-005, 192-140-200	Modifying unemployment eligibility requirements for individuals caring for children and vulnerable adults.	Filed May 20, 2019, in WSR 19-11-095	Filed January 14, 2020, in WSR 20-03-102; Filed August 3, 2020, in WSR 20-16-137	Expected to file February 2021, with an anticipated effective date of January 2022
Unemployment insurance benefits	To be determined	Reviewing emergency rules adopted as part of the state's COVID-19 pandemic response for permanent adoption.	Filed June 10, 2020, in WSR 20-13-041; September 24, 2020, in WSR 20-20-005	To be determined	To be determined
Unemployment insurance benefits	192-180	Adding additional flexibility for how individuals claiming unemployment insurance benefits can meet job search requirements.	Filed September 4, 2020	To be determined	To be determined
Unemployment insurance benefits	192-200-005	Updating the definition of benefit week for students to match references to benefit week in other WAC.	To be determined	To be determined	To be determined
Unemployment insurance benefits	192-320-070, 192-320-075, 192-320-080, 192-320-081, 192-320-082, 192-320-083, 192-320-084, and 192-170-010	Updating cross references following passage of SHB 2613 (2020) and adoption of WSR 20-11-022 and 20-10-056.	Not applicable	CR-105 adopted July 31, 2020, in WSR 20-16-104	Not applicable
Unemployment insurance benefits	192-02; 192-15	Modifying employment security department public disclosure and privacy rules.	Filed August 1, 2019, in WSR 19-16-085; August 26, 2019, in WSR 19-18-010	Filed July 21, 2020, in WSR 20-15-137; July 21, 2020, in WSR 20-15-139	Adopted October 16, 2020, in WSR 20-21-070; October 16, 2020, in WSR 20-21-071
Unemployment insurance benefits		Defining application procedures and eligibility criteria for the COVID-19 unemployment account as directed by HB 2965 (2020).	Filed April 1, 2020, in WSR 20-08-129	Filed July 13, 2020, in WSR 20-15-067	Adopted September 4, 2020, in WSR 20-19-108
Unemployment insurance benefits	192-240-070	Emergency rule stating overpayments for pandemic emergency unemployment compensation (PEUC) cannot be automatically waived.	Not applicable	Not applicable	Filed September 18, 2020, in WSR 20-19-108

Subject Matter or Division	WAC Chapter or Sections	Purpose and Scope of Rule Making	Preproposal Notice Filings (CR-101)	Proposed Rule and Public Hearing Filings (CR-102 or CR-105 Expedited)	Permanent Rule Filing (CR-103)
Unemployment insurance benefits	192-110-050	Emergency rule permitting greater flexibility for backdating requests to reopen unemployment claims.	Not applicable	Not applicable	Filed November 20, 2020, in WSR 20-24-026
Unemployment insurance benefits	192-110-006	Emergency rule providing clarity for which unemployment insurance claimants are subject to a one-week waiting period.	Not applicable	Not applicable	Filed January 7, 2021, in WSR 21-03-007
Unemployment insurance and paid family and medical leave	192-04-210, 192-800-125	Emergency rule removing the option to serve petitions for judicial review in person and adding the option to serve petitions for judicial review via email.	Not applicable	Not applicable	Filed November 20, 2020, in WSR 20-24-024
Paid family and leave	192-500-010, 192-500-035, 192-500-185, 192-570-030, 192-570-040, 192-570-050	Implementing SHB 2614 (chapter 125, Laws of 2020), amending definitions regarding "employer," "interested parties," and "waiting period," adding rules regarding complaints, unlawful acts, and damages, and other general updates.	Filed April 16, 2020, in WSR 20-09-111	Filed August 5, 2020, in WSR 20-16-148	Filed October 2, 2020, in WSR 20-20-074
Paid family and leave	192-500-040, 192-500-070, 192-500-080, 192-500-170, 192-500-195, 192-510-090, 192-610-025, 192-620-035, 192-800-035, 192-800-045, 192-800-110	Adding a definition of "placement" of a child for eligibility for family bonding leave, clarifying when a claim year will be established, documentation requirements for the birth or placement of a child, how benefits will be prorated, and other clarifying changes.	Filed April 16, 2020, in WSR 20-09-112	Filed August 5, 2020, in WSR 20-16-149	Filed October 2, 2020, in WSR 20-20-073
Paid family and medical leave	192-510-091 (new)	Emergency rule clarifying what service is considered localized as it relates specifically to the temporary physical reassignment of an employee due to the COVID-19 pandemic.	Not applicable	Not applicable	Expected to file January 2021
Paid family and medical leave	192-500-190, 192-510-010, 192-510-031, 192-510-040, 192-510-065, 192-540-080, 192-530-060, 192-530-070, 192-560-020, 192-610-051, 192-700-005, 192-700-010, 192-800-010, 192-800-020, 192-800-125, 192-810-030	Expedited rule-making to remove references to subsections of statute to ensure the accuracy of referenced sections of statute with Title 50A RCW.	Not applicable	CR-105 filed October 23, 2020, in WSR 20-22-018	Not applicable
Paid family and medical leave	192-510-050, 192-560-010, 192-610-090, 192-620-020, 192-620-035, 192-700-006, 192-700-007, 192-800-045, 192-800-155	Adding the definition of "illegal act" for purposes of benefit disqualification, clarifying employment restoration requirements and hours worked to align with federal requirements, withdrawals and redeterminations for appeals, closed hearings, and other technical and clarifying changes.	Filed August 5, 2020, in WSR 20-16-151	Filed January 6, 2021, in WSR 21-02-088	Expected to be filed February 26, 2021

Subject Matter or Division	WAC Chapter or Sections	Purpose and Scope of Rule Making	Preproposal Notice Filings (CR-101)	Proposed Rule and Public Hearing Filings (CR-102 or CR-105 Expedited)	Permanent Rule Filing (CR-103)
Long-term services and supports	192-905-005, 192-905-010, 192-905-015, 192-905-020	The first phase of rule making to implement Title 50B RCW will address exemptions, applications for exemptions, notification to employers, and other subjects as needed.	Filed June 30, 2020, in WSR 20-14-086	Expected to file February 2021	Expected to file April 2021
Long-term services and supports	192-900; 192-900-910, 192-900-915, 192-900-920, 192-900-925	The second phase of rule making to implement Title 50B RCW will address definitions, premium collection, reporting and payments, cost-benefit analysis exemption, election of coverage by self-employed individuals, appeals, and other subjects as needed.	Filed October 16, 2020, in WSR 20-21-072	Expected to file May 2021	Expected to file July 2021
Long-term services and supports	To be determined	The third phase of rule-making to implement Title 50B RCW will address audit functions, state actuary/ESD functions, and determinations on "qualified individual" status.	Expected to file April 2021	Expected to file November 2021	Expected to file January 2022

ESD is responsible for initiating rule making to implement new state laws, meet federal requirements, and to meet unforeseen circumstances. Because of this variability, this agenda is prepared for information purposes only and any dates noted herein are planning estimates that are subject to change. Additional rule making can occur in addition to what is listed on the agenda.

This agenda does not constitute a rule or rule-making action. Any errors or omissions in this agenda do not affect the actual rules or rule-making notices filed with the office of the code reviser and published in the Washington State Register.

The rule-making process can appear complex. ESD has outlined the process on its website to help constituents understand and become involved <https://www.esd.wa.gov/newsroom/rulemaking-process>. If you have additional questions, please contact the agency rules coordinator, Scott E. Michael at 360-890-3448, or email at rules@esd.wa.gov.

WSR 21-04-079

NOTICE OF PUBLIC MEETINGS

GRAIN COMMISSION

[Filed January 29, 2021, 5:09 p.m.]

The Washington grain commission hereby complies with regulations as stated in RCW 42.30.075 and provides pertinent scheduled meeting changes for publication in the State Register. This change for the earlier published March regular meeting is submitted in the required twenty day notice prior to the new scheduled meeting date. This meeting will be held virtually via electronic remote access due to COVID-19.

Was previously listed as: Regular - Wednesday, March 17, at 10:00 a.m., and Thursday, March 18, at 8:00 a.m.

PLEASE CHANGE TO READ: Regular - Thursday, March 11, at 8:00 a.m., and Friday, March 12, at 8:00 a.m.

If you have any questions, please do not hesitate to contact our office.

WSR 21-04-080

AGENDA

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed January 29, 2021, 5:11 p.m.]

Following is the department of social and health services (DSHS) semi-annual rule-making agenda for January 1 - June 30, 2021. This agenda will be published in the Washington State Register as required in RCW 34.05.314 and distributed to interested parties. It is also available online at <https://www.dshs.wa.gov/office-of-the-secretary/dshs-semi-annual-rule-making-agenda>.

This report represents DSHS rules under development at this time. There may be additional rule-making activity as DSHS responds to legislative actions, to comply with federal mandates, or to meet unforeseen circumstances.

*Semi-Annual Rule-Making Agenda
January 1 - June 30, 2021*

Administration/Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
Aging and Long-Term Support Administration					
Home and Community Services Division					
	New chapter in Title 388 WAC; chapters 388-71, 388-106, 388-113, and 388-114 WAC	The department is planning to create a new chapter, amend these and other related rules as may be required.	WSR 20-08-093 Filed 3/30/2020		
	WAC 388-71-0100 through 388-71-01281	The department is planning to amend rules and create a new chapter for adult protective services, add a definition, include the petition process for nursing assistants, and other related rules as may be required.	WSR 20-18-089 Filed 9/02/2020		
	388-106-0050	The department is amending "What is an assessment?"	WSR 20-24-087 Filed 11/25/2020		WSR 20-23-043 Filed 11/12/2020
	388-71-0975	The department is amending "Who is required to obtain certification as a home care aide, and when?" to clarify how to interpret the long term care worker qualifications and requirements that have specific time periods for compliance when there has been a period of time in which the underlying requirements were suspended and waived in whole or part by emergency proclamation by the governor.	WSR 21-01-121 Filed 12/15/2020		WSR 21-01-018 Filed 12/3/2020
Residential Care Services Division					
	Chapter 388-78A WAC	The department is considering adding new sections and repealing and amending existing sections in "assisted living facility licensing rules" to consolidate the rules related to background checks, negative actions, and character, competence, and suitability determinations between home and community services, residential services, and developmental disabilities administration (DDA).	WSR 18-17-159 Filed 8/21/2018		
	Chapter 388-97 WAC	The department is considering adding new sections and repealing and amending existing sections in "nursing homes" including WAC 388-97-1790, 388-97-1800, 388-97-1820, and other related rules as maybe required.	WSR 18-17-175 Filed 8/22/2018		
	Chapter 388-76 WAC	The department is considering adding new sections and repealing and amending existing sections in "adult family home minimum licensing requirements."	WSR 18-17-177 Filed 8/22/2018		
	Chapter 388-107 WAC	The department is considering adding new sections and repealing and amending existing sections in "licensing requirements for enhanced services facilities."	WSR 18-17-178 Filed 8/22/2018		

Administration/Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	Chapter 388-76 WAC	The department is considering amending "adult family home minimum licensing requirements."	WSR 19-03-148 Filed 1/22/2019	WSR 20-22-102 Filed 11/3/2020 WSR 20-11-055 Filed 5/19/2020 WSR 20-02-013 Filed 12/19/2019	
	388-97-0001, 388-97-1090	The department is considering amending definitions, direct care hours, and other related rules as may be required to implement EHB 1564 (chapter 301, Laws of 2019).	WSR 20-08-101 Filed 3/30/2020		
	388-107-0460, 388-107-0490, 388-76-10265, 388-76-10285, 388-76-10290, 388-78A-2480, 388-78A-2484, 388-78A-2485	The department is temporarily repealing or amending rules to assure long-term care programs are not significantly impeded during the hiring process due to inability to access the tuberculosis (TB) testing required as a part of the hiring process.	WSR 20-16-069 Filed 7/29/2020		WSR 20-24-060 Filed 11/24/2020 WSR 20-16-102 Filed 7/31/2020 WSR 20-09-009 Filed 4/2/2020
	388-97-0120, 388-97-0920, 388-97-1000, 388-97-1020, 388-97-1915, 388-97-1975	The department is amending rules and repealing WAC 388-97-0920 to assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.	WSR 20-17-005 Filed 8/5/2020		WSR 21-01-035 Filed 12/7/2020 WSR 20-17-048 Filed 8/11/2020 WSR 20-09-074 Filed 4/13/2020
	388-78A-2524, 388-78A-2525, 388-78A-2526	The department is temporarily amending rules to assure assisted living facilities are not significantly impeded during the hiring process due to an administrator's inability to obtain a certificate of completion of a recognized administrator training as referenced in WAC 388-78A-2521.	WSR 20-17-085 Filed 8/13/2020		WSR 21-01-129 Filed 12/16/2020 WSR 20-18-001 Filed 8/20/2020 WSR 20-10-005 Filed 4/23/2020
	388-97-1260	The department is amending to assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak. These amendments will align state nursing home rules with federal rules that were suspended or amended to help facilitate care during the COVID-19 pandemic.	WSR 20-17-133 Filed 8/18/2020		WSR 21-01-192 Filed 12/22/2020 WSR 20-18-022 Filed 8/26/2020 WSR 20-10-034 Filed 4/28/2020
	Chapter 388-107 WAC	The department is considering amending these and other related rules as may be required to implement SHB 2448 (chapter 278, Laws of 2020).	WSR 20-10-091 Filed 5/5/2020		
	388-97-0300	The department is amending rules to assure nursing homes are not significantly impeded from [no further information supplied by agency].	WSR 20-19-009 Filed 9/3/2020		WSR 21-02-074 Filed 1/5/2021 WSR 20-19-040 Filed 9/10/2020 WSR 20-11-043 Filed 5/15/2020
	388-97-1740, 388-97-1760, 388-97-2400	The department is amending rules in chapter 388-97 WAC to assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.	WSR 20-21-034 Filed 10/12/2020		WSR 20-21-086 Filed 10/21/2020 WSR 20-14-026 Filed 6/23/2020
	388-76-10695, 388-76-10730	The department is amending sections in chapter 388-76 WAC, Adult family home minimum licensing requirements, including building codes—Structural requirements, grab bars and hand rails, and other related rules as may be required.	WSR 20-14-117 Filed 7/1/2020	WSR 20-22-100 Filed 11/3/2020	
	388-101-3130	The department is amending to assure certified community residential services and supports service providers are not significantly impeded from providing services and support to clients during the COVID-19 pandemic.	WSR 20-24-092 Filed 11/25/2020		WSR 21-01-010 Filed 12/3/2020 WSR 20-17-012 Filed 8/6/2020
	388-101-3020	The department is considering amending compliance, and other related rules as may be required.	WSR 20-23-054 Filed 11/13/2020		
	388-97-1380, 388-97-1580	The department is amending WAC 388-97-1380 and 388-97-1580 to assure nursing homes are not obstructed from offering the COVID-19 vaccine to residents and staff because of clinical interference from required TB testing.			WSR 21-04-020 Filed 1/25/2021

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
Behavioral Health Administration					
	Chapter 388-878 WAC	The department is planning to develop rules for the conditions of participation in the outpatient competency restoration program, within the framework of the forensic mental health care system.	WSR 20-08-116 Filed 3/31/2020		
Developmental Disabilities Administration					
	388-845-2019	The department is amending to make temporary modifications to DDA's home and community based services waivers to control the spread of the COVID-19 virus and to meet immediate health and safety needs.	WSR 20-15-010 Filed 7/2/2020		WSR 20-22-035 Filed 10/27/2020 WSR 20-14-101 Filed 6/30/2020 WSR 20-08-056 Filed 3/25/2020
	Chapter 388-828 WAC	The department is planning to amend to implement the consumer-directed employment program and align with changes being made to modernize the comprehensive assessment reporting evaluation (CARE) system.	WSR 20-08-058 Filed 3/25/2020		
	Chapter 388-826 WAC	The department is planning to align with recent amendments to chapter 74.13 RCW regarding "out-of-home services," currently referred to as "voluntary placement services" in chapter 388-826 WAC.	WSR 20-09-150 Filed 4/22/2020		
	388-101D-0065; chapter 388-825 WAC; 388-845-2205, 388-845-1615	The department is planning to amend these and other related rules as may be required to implement the consumer-directed employer program and align with changes being made to modernize the CARE system. DDA is also planning to amend rules to align with amendments being made by the aging and long-term support administration to chapters 388-71 WAC and 388-113 WAC.	WSR 20-14-029 Filed 6/23/2020		
	WAC 388-829R-170, 388-829R-230, 388-829-0005, 388-829-0045	The department is planning to amend these and other related rules as may be required to add overnight planned respite services providers, to correct and clarify terminology used, and add a new section about client rights.	WSR 20-14-099 Filed 6/30/2020		
	Chapter 388-829Z WAC	The department is planning to create a new chapter for emergency transitional respite, and create or amend other related rules as may be required.	WSR 20-16-138 Filed 8/3/2020		
	388-845-0001	The department is enacting these changes to align chapter 388-845 WAC with home and community based services waiver amendments approved by the Centers for Medicare and Medicaid Services.	WSR 20-20-100 Filed 10/5/2020		WSR 20-22-032 Filed 10/26/2020 WSR 20-20-068 Filed 10/1/2020
	388-823-0500, 388-823-0510	The department is planning to amend these and other related rules as may be required to align with changes made to the diagnostic statistical manual and clarify rule language as requested by stakeholders.	WSR 20-21-095 Filed 10/20/2020		
	Chapter 388-847 WAC	The department is considering creating a new chapter and amending other related rules as may be required to govern the new stabilization, assessment, and intervention facility program.	WSR 21-01-111 Filed 12/14/2020		
	388-829-0005	The department [is] planning to amend this and other related rules as may be required to add more provider types.	WSR 21-01-118 Filed 12/14/2020		
	388-101D-0200	The department is amending this and other related rules as may be required regarding suspending and terminating a client's residential services.	WSR 21-03-042 Filed 1/14/2021		
Economic Services Administration					
Community Services Division					
	388-310-0350	The department is amending WorkFirst—Other exemptions from mandatory participation, to temporarily exempt temporary assistance for needy families (TANF) recipients from mandatory WorkFirst participation as a result of the public health crisis created by the COVID-19 virus (commonly referred to as the "coronavirus").	WSR 20-14-104 Filed 6/30/2020	WSR 20-23-040 Filed 11/10/2020	WSR 20-23-045 Filed 11/12/2020 WSR 20-15-079 Filed 7/14/2020 WSR 20-07-079 Filed 3/16/2020

Administration/Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-447-0005, 388-447-0010, 388-447-0110, 388-449-0010, 388-449-0015, 388-449-0150	The department is amending what evidence do we consider to determine incapacity?; what medical evidence do I need to provide?; when does my eligibility for referral to the housing and essential needs (HEN) program end?; what evidence do we consider to determine disability?; what medical evidence do I need to provide?; and when does my eligibility for aged, blind, or disabled cash benefits end?	WSR 20-14-107 Filed 6/30/2020	WSR 20-23-075 Filed 11/16/2020	WSR 20-24-005 Filed 11/19/2020 WSR 20-16-015 Filed 7/23/2020 WSR 20-08-074 Filed 3/26/2020
	388-437-0005	The department is creating changes to food assistance in response to the COVID-19 pandemic, to implement changes to food assistance benefit issuances for March and April 2020 as provided in the Families First Coronavirus Response Act (H.R. 6201) Section 2302.	WSR 20-17-124 Filed 8/18/2020	WSR 20-24-072 Filed 11/24/2020	WSR 21-01-193 Filed 12/22/2020 WSR 20-18-029 Filed 8/27/2020 WSR 20-10-048 Filed 4/29/2020 WSR 20-08-107 Filed 3/31/2020
	Chapter 388-76 WAC	The department is considering amending to incorporate ESHB 1023, 2020 regular session, into the rules.	WSR 20-08-110 Filed 3/31/2020		
	388-484-0006	The department is amending TANF/SFA time limit extensions, to add a TANF time limit extension hardship category related to impacts of the COVID-19 pandemic (commonly known as the "coronavirus").	WSR 20-15-122 Filed 7/17/2020	WSR 20-20-072 Filed 10/2/2020	WSR 20-24-061 Filed 11/24/2020 WSR 20-16-082 Filed 7/30/2020 WSR 20-09-001 Filed 4/1/2020
	388-436-0040, 388-436-0050, 388-436-0055	The department is amending excluded income and resources for CEAP; determining financial need and benefit amount for CEAP; and what is the disaster cash assistance program (DCAP)? These amendments are necessary to expand consolidated emergency assistance and related disaster cash assistance program during the statewide public health crisis created by the COVID-19 virus (commonly referred to as the "coronavirus").	WSR 20-16-129 Filed 8/3/2020		WSR 20-19-072 Filed 9/14/2020 WSR 20-17-069 Filed 8/13/2020 WSR 20-09-102 Filed 4/16/2020
	388-444-0015, 388-444-0025	The community services division is planning to amend How can the basic food employment and training (BF E&T) program help me find work?, What expenses will the department pay to help me participate in BF E&T?, and other related rules as may be required.	WSR 20-09-134 Filed 4/21/2020		
	388-434-0015	The department is creating WAC 388-434-0015, Extension of certification periods and waiver of eligibility reviews and midcertification reviews during the COVID-19 pandemic.	WSR 20-22-062 Filed 10/30/2020		WSR 20-22-065 Filed 10/30/2020 WSR 20-10-046 Filed 4/29/2020
	388-458-0011	The department is planning to amend "DSHS sends you a denial letter when you can't get benefits," and other related rules as may be required to ensure rules are consistent with FNS and Supplemental Nutrition Assistance Program (SNAP) regulations and formal guidance.	WSR 20-12-089 Filed 6/2/2020		
	388-482-0005	The department is planning to amend "How does being a student of higher education affect my eligibility for Washington basic food program?," and other related rules as may be required.	WSR 20-12-095 Filed 6/2/2020	WSR 20-23-050 Filed 11/12/2020	
	388-454-0006	The department is planning to amend "The department makes background checks on adults who are acting in place of a parent without court-ordered custody," and other related rules as may be required.	WSR 20-13-047 Filed 6/11/2020	WSR 20-20-086 Filed 10/5/2020	
	388-437-0015, 388-476-0005	The department is adopting a new WAC and amending Social Security number requirements, to align rule language more closely with federal regulation governing SNAP.	WSR 21-03-009 Filed 1/8/2021 WSR 20-22-079 Filed 11/3/2020		WSR 21-03-014 Filed 1/8/2021 WSR 20-16-084 Filed 7/30/2020
	388-437-0020	The department is adopting availability of pandemic EBT benefits, to describe the eligibility of children under age five, place a deadline on receipt of all Pandemic EBT (P-EBT) applications, and place a deadline on the receipt of P-EBT benefits.			WSR 20-19-088 Filed 9/16/2020 WSR 20-19-059 Filed 9/11/2020

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-450-0185, 388-450-0190, 388-450-0195, 388-478-0060	The department is amending "What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?; How does the department figure my shelter cost income deduction for basic food?; Does the department use my utility costs when calculating my basic food or WASHCAP benefits?; and What are the income limits and maximum benefit amounts for basic food?" to implement annual adjustments to standards for the basic food program.	WSR 20-20-102 Filed 10/5/2020	WSR 20-24-056 Filed 11/24/2020	WSR 21-04-060 Filed 1/28/2021 WSR 20-20-035 Filed 9/30/2020
	388-310-1600	The department is planning to amend WorkFirst-sanctions; and other related rules as may be required.	WSR 20-20-138 Filed 10/7/2020		
	388-434-0005	The department is proposing amendments to How often does the department review my eligibility for benefits?			
	388-412-0025	The department is planning to amend "How do I receive my benefits?" and other related rules as may be required.	WSR 20-22-077 Filed 11/3/2020		
Division of Child Support					
	Chapter 388-14A WAC	The department is planning to amend sections in dealing with the establishment of administrative child support orders including "The notice and finding of financial responsibility is used to set child support when paternity is not at issue," "What can happen at a hearing on a support establishment notice?," and other related rules as may be required.	WSR 18-07-077 Filed 3/19/2018		
	Chapter 388-14A WAC	The department is planning to amend, adopt, or repeal sections to do the following: (1) Implement ESSB 6037 (chapter 6, Laws of 2018) and the technical corrections made to ESSB 6037 by SSB 5333 (chapter 46, Laws of 2019); and (2) update terminology and clarify and streamline the rules and procedures regarding parentage from the Uniform Parentage Act (adopted as chapter 26.26A RCW) to conform with current state and federal laws.	WSR 20-07-090 Filed 3/17/2020		
	388-14A-2210	The department is creating a new rule [to] clarify that temporary procedures employed by the United States Postal Service are acceptable for purposes of certified mail service.	WSR 20-09-148 Filed 4/22/2020		WSR 21-01-040 Filed 12/8/2020 WSR 20-17-060 Filed 8/12/2020 WSR 20-09-081 Filed 4/14/2020
	Chapter 388-14A WAC	The department is planning to amend WAC 388-14A-3205 and other related rules as may be required involving division of child support income calculation.	WSR 20-14-021 Filed 6/22/2020		WSR 20-22-046 Filed 10/28/2020 WSR 20-14-018 Filed 6/22/2020

Katherine I. Vasquez
Rules Coordinator

WSR 21-04-082
RULES OF COURT
STATE SUPREME COURT
[January 1, 2021]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [21-06](#) issue of the Register.

WSR 21-04-083
RULES OF COURT
STATE SUPREME COURT
[December 2, 2021]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [21-05](#) issue of the Register.

WSR 21-04-084
RULES OF COURT
STATE SUPREME COURT
[December 11, 2020]

IN THE MATTER OF THE) AMENDED ORDER
SUGGESTED AMENDMENT TO GR) NO. 25700-A-1325
11.3 TELEPHONIC REMOTE)
INTERPRETING)

The Washington State Supreme Court Interpreter Commission, having recommended the expeditious adoption of the suggested amendment to GR 11.3 Telephonic Remote Interpreting, and the Court having considered the suggested amendment, and having determined that the suggested amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the suggested amendment as shown below is adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the suggested amendment will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 11th day of December, 2020.

Stephens, C.J.
Johnson, J. Gordon McCloud, J.
Madsen, J. Yu, J.
Owens, J. Montoya-Lewis, J.
Gonzalez, J. Whitener, J.

GR 11.3

TELEPHONIC REMOTE INTERPRETING

(a) Interpreters may be appointed to serve by telephone for brief, nonevidentiary proceedings, including initial appearances and arraignments, when interpreters are not readily available to the court. Telephone interpretation is not authorized for evidentiary hearings.

(a) Whenever an interpreter is appointed in a legal proceeding, the interpreter shall appear in person unless the Court makes a good cause finding that an in-person interpreter is not practicable, and where it will allow the users to fully and meaningfully participate in the proceedings. The court shall make a preliminary determination on the record, on the basis of testimony of the person utilizing the interpreter services, of such ability to participate and if not, the court must provide alternative access.

(b) RCW 2.42, RCW 2.43 and GR 11.2 must be followed regarding the interpreter's qualifications and other matters. code of professional responsibility for judiciary interpreters.

(c) In all remote interpreting court events, both the litigant and the interpreter must have clear audio of all participants throughout the hearing. In video remote court events, the litigant and interpreter must also have a clear video image of the participants throughout the hearing.

~~(d)(c) Electronic equipment used during the hearing must ensure that the non-English speaking party hears all statements made by the participants. If electronic equipment is not available for simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of each sentence. If the telephonic or video technology does not allow simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of all statements.~~

~~(e)(d) Attorney-client consultations must be interpreted confidentially. The court must provide a means for confidential attorney-client communications during hearings, and allow for these communications to be interpreted confidentially.~~

~~(f) To ensure accuracy of the record, the court and the parties should, where practicable, provide the following to the interpreter, electronically or by other means, in advance of the hearing, allowing the interpreter sufficient time to review the information and prepare for the hearing:~~

~~i. Case information and documents pertaining to the hearing.~~

~~ii. Names and spellings of all participants in the hearing to include but not limited to: litigants, judge, attorneys, and witnesses.~~

~~iii. Evidence related to the hearing, to include but not limited to: documents, photographs and images, audio and video recordings and any transcription or translations of such materials.~~

~~(e)(g) Written documents, the content of which would normally be orally translated interpreted, by the interpreter must be read aloud by a person other than the interpreter to allow for full oral translation interpretation of the material by the interpreter.~~

~~(g)(h) An audio recording shall be made of all statements made on the record during their interpretation, and the same shall be preserved. Upon the request of a party, the court may make and maintain an audio recording of the spoken language interpretations or a video recording of the signed language interpretations made during a hearing. Any recordings permitted by this subparagraph shall be made and maintained in the same manner as other audio or video recordings of court proceedings. This subparagraph shall not apply to court interpretations during jury discussions and deliberations.~~

~~(i) When using remote interpreter services in combination with remote legal proceedings, courts should ensure the following: the LEP person or person with hearing loss is able to access the necessary technology to join the proceeding remotely; the remote technology allows for confidential attorney-client communications, or the court provides alternative means for these communications; the remote technology allows for simultaneous interpreting, or the court shall conduct the hearing with consecutive interpretation and take measures to ensure interpretation of all statements; translated instructions on appearing remotely are provided, or alternative access to this information is provided through interpretation services; audio and video feeds are clear; and judges, court staff, attorneys, and interpreters are trained on the use of the remote platform.~~

Comments:

~~1) Section (a) is a significant departure from prior court rule which limited the use of telephonic interpreter services to non-evidentiary hearings. While remote interpretation is permissible, in-person interpreting services are the primary and preferred way of providing interpreter services for legal proceedings. Because video remote interpreting provides the litigants and interpreters the ability to see and hear all parties, it is more effective than telephonic inter-~~

preter services. Allowing remote interpretation for evidentiary hearings will provide flexibility to courts to create greater accessibility. However, in using this mode of delivering interpreter services, where the interpreter is remotely situated, courts must ensure that the remote interpretation is as effective and meaningful as it would be in-person and that the LEP litigant is provided full access to the proceedings. Interpreting in courts involves more than the communications that occur during a legal proceeding and courts utilizing remote interpretation should develop measures to address how LEP and persons with hearing loss will have access to communications occurring outside the courtroom where the in-person interpreter would have facilitated this communication. Courts should make a preliminary determination on the record regarding the effectiveness of remote interpretation and the ability of the LEP litigant to meaningfully participate at each occurrence because circumstances may change over time necessitating an ongoing determination that the remote interpretation is effective and enables the parties to meaningfully participate.

Interpreting in courts involves more than the communications that occur during a legal proceeding and courts utilizing remote interpretation should develop measures to address how LEP and persons with hearing loss will have access to communications occurring outside the courtroom where the in-person interpreter would have facilitated this communication.

2) Section (b) reinforces the requirement that interpreters appointed to appear remotely must meet the qualification standards established in RCW 2.42 and 2.43 and they must be familiar with and comply with the code of professional responsibility for judiciary interpreters. Courts are discouraged from using telephonic interpreter service providers who cannot meet the qualification standards outlined in RCW 2.42 and 2.43.

3) Section (c) discusses the importance of courts using appropriate equipment and technology when providing interpretation services through remote means. Courts should ensure that the technology provides clear audio and video, where applicable, to all participants. Because of the different technology and arrangement within a given court, audio transmissions can be interrupted by background noise or by distance from the sound equipment. This can limit the ability of the interpreter to accurately interpret. Where the litigant is also appearing remotely, as is contemplated in (h), courts should also ensure that the technology allows litigants full access to all visual and auditory information.

When utilizing remote video interpreting for persons with hearing loss, the following performance standards must be met: real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; a sharply delineated image that is large enough to display the interpreter and person using sign language's face, arms, hands, and fingers; and clear, audible transmission of voices.

4) Section (e) reiterates the importance of the ability of individuals to consult with their attorneys, throughout a legal proceeding. When the interpreter is appearing remotely, courts should develop practices to allow these communications to occur. At times, the court interpreter will interpret communications between a litigant and an attorney just before a hearing is starting, during court recesses, and

at the conclusion of a hearing. These practices should be supported even when the court is using remote interpreting services.

5) Section (h) contemplates a situation where the legal proceeding is occurring remotely, including the interpretation. In this situation, all or most parties and participants at the hearing are appearing remotely and additional precautions regarding accessibility are warranted. This section highlights some of the additional considerations courts should make when coupling remote interpretation with a remote legal proceeding.

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

WSR 21-04-085
RULES OF COURT
STATE SUPREME COURT
[February 1, 2021]

IN THE MATTER OF THE) ORDER
SUGGESTED NEW RULE GR 11.4—) NO. 25700-A-1326
TEAM INTERPRETING)

The Washington State Supreme Court Interpreter Commission, having recommended the expeditious adoption of the suggested new rule GR 11.4—Team Interpreting, and the Court having considered the suggested new rule, and having determined that the suggested new rule will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the suggested new rule as shown below is adopted.

(b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested new rule will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of December, 2020.

Johnson, J. Stephens, C.J.
Madsen, J. Gordon McCloud, J.
Owens, J. Yu, J.
Gonzalez, J. Montoya-Lewis, J.
Whitener, J.

GR 11.4
TEAM INTERPRETING

(a) Definitions.

(1) Team interpreting for spoken languages - the practice of using two interpreters of the same language pair (e.g. English - Spanish) who take turns interpreting.

(2) Team interpreting for sign languages - the practice of using multiple interpreters, which might include Deaf Interpreters.

(3) Simultaneous mode of interpreting - the rendering of a speaker's or signer's message into another language while the speaker or signer continues to speak or sign. Parties speak or sign at the same time.

(4) Consecutive mode of interpreting - the rendering of a speaker's or signer's message into another language when the speaker or signer pauses to allow interpreting. Parties take turns speaking or signing.

(5) Relay interpreting is the practice of interpreting from one language to another through a third language. It is necessary when no single interpreter commands the required language pair.

(b) Spoken Languages.

(1) To provide for accurate and complete interpreting, a team of two (2) interpreters must be appointed when it is anticipated that an assignment will require more than one (1) hour of simultaneous interpreting or two (2) hours of consecutive interpreting.

(2) If relay interpreting is required, a team of two (2) interpreters for each language pair must be appointed pursuant to (1) above.

(c) Sign Languages.

(1) To provide for accurate and complete interpreting, a team of interpreters must be appointed for each participant who needs sign language interpreting when the event will last more than one (1) hour, as well as in challenging linguistic situations.

(2) If the team requires intermediary Deaf Interpreters, a team of two (2) Deaf Interpreters and a team of two (2) American Sign Language (ASL) interpreters must be appointed.

(d) Good Cause Exception.

When a team of interpreters is required under this rule, it is permissible to proceed with a single interpreter only when:

(1) a team of interpreters is not reasonably available, and it is found and noted on the record that given the totality of the circumstances, there is good cause to proceed with only one interpreter; and

(2) the single interpreter is given breaks at regular intervals. An interpreter working alone must be given a ten-minute (10) break after every twenty (20) minutes of interpretation.

Comments:

[1] Simultaneous mode of interpreting is used when the recipients of interpretation are listening or watching, and the flow of information is in one direction only, such as during trials, motion hearings and classes.

[2] Research has established that simultaneous interpreting involves intensive cognitive activity. Interpreter fatigue—both physical and mental—results from the high degree of concentration an interpreter must employ to hear, analyze, and understand ideas in one language and then render those same ideas coherently in another. This research has demonstrated that accuracy begins to decline within 15 to 30 minutes of simultaneous interpreting, before interpreters are even aware of the fatigue that leads to this increase in errors. After 30 minutes, the decline is precipitous. Therefore, it is imperative that interpreters alternate every 15 to 30 minutes, as agreed upon by members of the interpreting team.

[3] Consecutive mode of interpreting is used when the recipients of interpretation are responding to questions and the exchange of information is two-directional, such as during testimony, interviews, and depositions.

[4] In consecutive mode, the interpreter must focus intensely to memorize substantial chunks of information and then render them precisely.

Consecutive mode requires the same amount of cognitive work as simultaneous, but the fatigue builds up over a longer period of time.

[5] Communication through sign language can be particularly broad and challenging. Not all Deaf, Deafblind, or hard of hearing participants use the same sign language dialect, and some have specialized linguistic needs. A Deaf Interpreter (DI) may be needed in addition to an ASL interpreter. A DI is a professional interpreter who is Deaf, an expert in ASL linguistics, and a native user of ASL. These skills uniquely qualify them to meet the linguistic and cultural needs of a Deaf person. The requester should look to the expertise of the sign language interpreter and the knowledge and experience of the parties

to identify such needs and assign a team of sign language interpreters where appropriate.

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

WSR 21-04-086
RULES OF COURT
STATE SUPREME COURT
[December 2, 2021]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENT TO CrR) NO. 25700-A-1327
4.2(g))

The Washington State Pattern Forms Committee, having recommended the expeditious adoption of the suggested amendment to CrR 4.2(g), and the Court having considered the suggested amendment, and having determined that the suggested amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the suggested amendment as shown below is adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the suggested amendment will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of December, 2020.

Johnson, J. Stephens, C.J.
Madsen, J. Gordon McCloud, J.
Owens, J. Yu, J.
Gonzalez, J. Montoya-Lewis, J.
Whitener, J.

CrR 4.2—PLEAS

(a)-(f) [Unchanged.]

(g) Written Statement. A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty:

Superior Court of Washington for
State of Washington, Plaintiff
v. Defendant
No. Statement of Defendant on Plea of Guilty to Non-Sex Offense (Felony) (STDFG)

- 1. My true name is:
2. My age is:
3. The last level of education I completed was:
4. I Have Been Informed and Fully Understand That:
(a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
(b) I am charged with:
The elements are:

5. I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. In Considering the Consequences of my Guilty Plea, I Understand That:

- (a) My right to appeal is limited.
- (b) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range**, as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1					
2					
3					

* The sentencing enhancement codes are: (RPh) Robbery of a pharmacy, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude. The following enhancements will run consecutively to all other parts of my entire sentence, including other enhancements and other counts: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (JP) Juvenile present, (VH) Veh. Hom., see RCW 9.94A.533(7), (P16) Passenger(s) under age 16.

(c) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.

(d) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(e) If I committed the above crime(s) while under age 18 and am sentenced to more than 20 years of confinement:

(i) As long as my conviction is not for aggravated first degree murder or certain sex crimes, and I have not been convicted of any crime committed after I turned 18 or committed a disqualifying serious infraction as defined by DOC in the 12 months before the petition is filed, I may petition the Indeterminate Sentence Review Board (Board) for early release after I have served 20 years.

(ii) If I am released early because my petition was granted or by other action of the Board, I will be subject to community custody under the supervision of the DOC for a period of time determined by the Board, up to the length of the court-imposed term of incarceration. I will be required to comply with any conditions imposed by the Board.

(iii) If I violate the conditions of community custody, the Board may return me to confinement for up to the remainder of the court-imposed term of incarceration.

(f) If I committed aggravated murder in the first degree and I was under the age of 18 at the time of the offense:

(i) If I was under the age of 16 at the time of the offense, the judge will impose a maximum term of life and impose a minimum term of total confinement of 25 years for that crime.

(ii) If I was at least 16 but less than 18 years old at the time of the offense, the judge will impose a maximum term of life and will impose a minimum term of total confinement that is at least 25 years.

(iii) During the minimum term, I will not be eligible for earned early release time, home detention, partial confinement, work release, or any form of early release.

(iv) After the minimum term, if I am released by the Board, I will be subject to community custody under the supervision of the DOC for a period of time determined by the board, and must comply with conditions imposed.

(v) If I violate the conditions of community custody, the Board may return me to confinement.

(g) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

(h) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees, and the costs of incarceration.

(i) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the total period of confinement is more than 12 months, and if this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community custody. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community custody. The actual period of community custody may be longer than my earned early release period. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months, but only if the crime I have been convicted of falls into one of the offense types listed in the following chart. For the offense of failure to register as a sex offender, regardless of the length of confinement, the judge will sentence me for up to 12 months of community custody. If the total period of confinement ordered is more than 12 months, and if the crime I have been convicted of falls into one of the offense types

listed in the following chart, the court will sentence me to community custody for the term established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.729 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody term will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses	36 months
Violent Offenses	18 months
Crimes Against Persons as defined by RCW 9.94A.411(2)	12 months
Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.660)	12 months
Offenses involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate	12 months

Certain sentencing alternatives may also include community custody.

During the period of community custody, I will be under the supervision of the Department of Corrections. For crimes occurring on or after June 28, 2016, the supervision of the Department of Corrections cannot exceed the times specified in this paragraph. I may have restrictions and requirements placed upon me, including additional conditions of community custody that may be imposed by the Department of Corrections. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005 (6) (h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days' confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

(j) The prosecuting attorney will make the following recommendation to the judge: _____

The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

(k) The judge does not have to follow anyone's recommendation as to sentence. If I was over the age of 18 when I committed this crime, the judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If I was under the age of 18 when I committed this crime, the judge has the discretion to impose an exceptional sentence downward. I understand the following regarding exceptional sentences:

(i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.

(ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.

(iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.

(iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

(v) If I committed this crime under the age of 18, the judge must consider mitigating circumstances related to my youth, including, but not limited to immaturity, impetuosity, and failure to appreciate risks and consequences, the nature of my surrounding environment and family circumstances, the extent of my participation in the crime, the way familial and peer pressures may have affected me, how youth impacted any legal defense, and any factors suggesting that I might be successfully rehabilitated. If I am convicted of a sentencing enhancement, the court has full discretion to depart from mandatory sentencing enhancements and to take the particular circumstances surrounding my youth into account.

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.

(l) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(m) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.

(n) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079; RCW 29A.08.520.

(o) Government assistance may be suspended during any period of confinement.

(p) I will be required to have a biological sample collected for purposes of DNA identification analysis. I will be required to pay a \$100.00 DNA collection fee, unless a DNA collection fee has previously been ordered.

Notification Relating to Specific Crimes: If any of the following paragraphs DO NOT APPLY, counsel and the defendant shall strike them out. The defendant and the judge shall initial all paragraphs that DO APPLY

(q) This offense is a most serious offense or "strike" as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.

_____ (r) The judge may sentence me as a first-time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement and up to one year of community custody plus all of the conditions described in paragraph 6(h). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.

_____ (s) The judge may sentence me under the Parenting Sentencing Alternative, if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete a risk assessment report, including a family impact statement, or a chemical dependency screening report, or both. If the judge decides to impose the Parenting Sentencing Alternative, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At any time during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. I have the right to assistance of counsel at this hearing and the court will appoint counsel if I am indigent. The court may modify the conditions of community custody or impose sanctions, including extending the length of participation in the alternative program by no more than six months. If the court finds I violated the conditions or requirements of the sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.

_____ (t) If this crime involves kidnapping involving a minor, including unlawful imprisonment involving a minor who is not my child, or if this crime is promoting prostitution in the first or second degree and I have at least one prior conviction for promoting prostitution in the first or second degree, or if this crime is (human) trafficking in the first degree under RCW 9A.40.100 (1)(a)(i)(A)(III) or (IV) or (1)(a)(i)(B) (relating to sexually explicit acts or commercial sex acts), I will be required to register where I reside, study, or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.

_____ (u) If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$115.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150. If I am convicted under RCW 26.50.110 for a violation of a domestic violence protection order issued under chapter 26.50 RCW, the court shall impose a mandatory fine of \$15.00.

_____ (v) The judge may sentence me under the drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential ~~chemical dependency~~ substance use disorder treatment-based alternative, the judge may order that I be examined by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential ~~chemical dependency~~ substance use disorder treatment-based alternative.

If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance ~~abuse~~ use disorder assessment and to participate in treatment. If this crime involves domestic violence, I also will be required to undergo a comprehensive domestic violence assess-

ment and to participate in a domestic violence treatment program provided by a state-certified treatment provider during the term of community custody. The judge will also impose a term of community custody of one-half of the midpoint of the standard range.

If the judge imposes the **residential chemical dependency substance use disorder treatment-based alternative**, the sentence will consist of a two year term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of **three up to six months**, as set by the court. If this crime involves domestic violence, I will be required to undergo a comprehensive domestic violence assessment and to participate in a domestic violence treatment program provided by a state certified treatment provider. The sentence may also include an indeterminate term of confinement of no more than thirty days in a facility operated under contract by the county in order to facilitate direct transfer to a residential substance use disorder treatment facility.

As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency substance use disorder treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the Department of Corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring or in cases of domestic violence, for monitoring with global positioning system technology for compliance with a no-contact order and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(h). The judge, on his or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. If the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within the standard range.

(w) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty. Rehabilitative programs may include an order to obtain an evaluation for alcohol or controlled substance chemical dependency treatment. The court may also prohibit me from possessing or consuming alcohol or controlled substances without a valid prescription.

(x) If this crime involves the manufacture, delivery, or possession with the intent to deliver methamphetamine, including its salts,

isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, and if a fine is imposed, \$3,000 of the fine may not be suspended. RCW 69.50.401 (2)(b).

_____ (y) If this crime involves a violation of the state drug laws, my eligibility for state and federal education benefits may be affected. 20 U.S.C. § 1091(r).

_____ (z) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.

_____ (aa) I understand that RCW 46.20.265 requires that my driver's license be revoked if (a) the current offense is a violation under chapters 69.41 [legend drug], 69.50 [violation of the Uniform Controlled Substances Act], or 69.52 [imitation drugs] RCW, and I was under the age of 21 at the time of the offense, or (b) the current offense is a violation under RCW 9.41.040 (unlawful possession of firearm) and I was under the age of 18 at the time of the offense, or (c) the current offense is a violation under chapter 66.44 RCW [alcohol] and I was under the age of 18 at the time of the offense, and if (a), (b), or (c) applies, the court finds that I previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

_____ (bb) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor, or any drug, as defined by RCW 46.61.520, an impaired driving enhancement of an additional two years shall be added to the standard sentence range for vehicular homicide for each prior offense as defined in RCW 46.61.5055(14). All impaired driving enhancements are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other impaired driving enhancements, for all offenses sentenced under chapter 9.94A RCW.

_____ (cc) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked, or denied. Following the period of suspension, revocation or denial, I must comply with the Department of Licensing ignition interlock device requirements. In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of \$20 per month.

_____ (dd) For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other minor child enhancements, for all offenses sentenced under chapter 9.94A RCW.

_____ (ee) I am pleading guilty to the crime of driving without a required ignition interlock device (RCW 46.20.740), or the crime of cir-

cumventing or tampering with a required ignition interlock device (RCW 46.20.750(1)), and the offense occurred on or after September 26, 2015. The sentence for that offense must be served consecutively with any other sentence imposed for violations of either of those statutes and with any sentence imposed under RCW 46.61.502 (DUI), RCW 46.61.504 (physical control under the influence), or RCW 46.61.5055. The sentence for violation of RCW 46.20.750(1) also must be served consecutively with any sentence imposed under RCW 46.61.520 (1)(a) or 46.61.522 (1)(b) (vehicular homicide/assault while under the influence of alcohol/drugs).

_____ (ff) For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, or vehicular assault while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to \$2,500 per incident.

_____ (gg) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(q).

_____ (hh) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.

_____ (ii) The offense(s) I am pleading guilty to include(s) a Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must run consecutively to all other sentencing provisions.

_____ (jj) The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.

_____ (kk) If I am pleading guilty to (1) unlawful possession of a firearm(s) in the first or second degree and (2) felony theft of a firearm or possession of a stolen firearm, I am required to serve the sentences for these crimes consecutively to one another. If I am pleading guilty to unlawful possession of more than one firearm, I must serve each of the sentences for unlawful possession consecutively to each other.

_____ (ll) If I am pleading guilty to a felony firearm offense as defined in RCW 9.41.010, I may be required to register as a felony firearm offender under RCW 9.41.330. I will be required to register as a felony firearm offender if I committed the felony firearm offense in conjunction with an offense committed against a person under age 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030. The specific registration requirements are in the "Felony Firearm Offender Registration" Attachment.

_____ (mm) If I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance

payment shall be made for at least six months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.

____ (nn) The judge may authorize work ethic camp. To qualify for work ethic authorization, my term of total confinement must be more than 12 months and less than 36 months, I cannot currently be either pending prosecution or serving a sentence for violation of the Uniform Controlled Substances Act, and I cannot have a current or prior conviction for a sex or violent offense.

____ (oo) The judge may sentence me under the theft or taking of a motor vehicle sentencing option, RCW 9.94A.711, if I am pleading guilty to one of the following crimes committed on or after July 28, 2019, and the midpoint of the standard sentence range is greater than one year: Theft of a motor vehicle (RCW 9A.56.065) or an attempt; Possession of a stolen vehicle (RCW 9A.56.068) or an attempt; Taking a motor vehicle without permission in the first degree (RCW 9A.56.070); or Taking a motor vehicle without permission in the second degree (RCW 9A.56.075). My sentence would include 6 to 12 months of community custody and the sentence of confinement could not exceed the midpoint of the standard range reduced by one-third of the community custody term.

____ (pp) If I am pleading guilty to Animal Cruelty in the First Degree I will be permanently prohibited from owning, caring for, or residing with any animal. RCW 16.52.200.

7. I plead guilty to:

count _____
count _____
count _____

in the _____ Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea, except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime, including enhancements and domestic violence relationships, if they apply. This is my statement:

Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment, and the "Felony Firearm Registration" Attachment, if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Defendant

I have read and discussed this statement with the defendant. I believe that the defendant is competent and fully understands the statement.

Prosecuting Attorney

Defendant's Lawyer

Print Name

WSBA No.

Print Name

WSBA No.

The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is included below.

Interpreter's Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands. I have interpreted this document for the defendant from English into that language. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter

Print Name

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: _____

Judge

Statement of Defendant on Plea of Guilty - Sex Offense
[Unchanged.]

Felony Firearm Offender Attachment
[Unchanged.]

Offender Registration Attachment
[Unchanged.]

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

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

WSR 21-04-087
RULES OF COURT
STATE SUPREME COURT
[December 11, 2020]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [21-06](#) issue of the Register.

WSR 21-04-088
RULES OF COURT
STATE SUPREME COURT
[December 2, 2020]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENT TO GR) NO. 25700-A-1329
22—ACCESS TO FAMILY LAW AND)
GUARDIANSHIP)

The Administrative Office of the Court's Office of Guardianship and Elder Services, having recommended the suggested amendment to GR 22—Access to Family Law and Guardianship, and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 2nd day of December, 2020.

For the Court

Stephens, C.J.

CHIEF JUSTICE

SUGGESTED AMENDMENTS TO GENERAL RULE (GR) 22
ACCESS TO FAMILY LAW AND GUARDIANSHIP RECORDS

(A) Name of Proponent: Administrative Office of the Courts
of Guardianship and Elder Services

(C) Purpose: Background: The suggested amendments aim to align GR 22 with the legislature's 2019 adoption of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act ("UGCOPAA" or the colloquial "UGA") in the form of Senate Bill 5604, as amended during the 2020 Legislative Session by Senate Bill 6287. The UGA is codified at RCW 11.130. The UGA becomes effective in stages, with provisions governing minor guardianship effective January 1, 2021. The provisions of the UGA that become effective January 1, 2022, include those affecting adult guardianships, and conservatorships and protective arrangements applicable to both adults and minors. Washington's Title 11 guardianship laws are currently covered in Chapters 11.88 and 11.92. Chapters 11.88 and 11.92 will be repealed in full as of January 1, 2022.

Of significance, the UGA repeals RCW 26.10, the nonparent custody statute, as of January 1, 2021. GR 22 revisions require expedited re-

view due to the impending effective date of minor guardianship provisions under the UGA and repeal of nonparent custody.

Suggested changes with respect to Personal Identifiers protection. With the repeal of RCW 26.10, the volume of minor guardianship cases under Title 11 is expected to greatly increase. The UGA states that the "Letters of Office" are the record issued by the court that certifies a guardian's authority to act. See RCW 11.130.010(16). Pursuant to the terms of the UGA, the authority to act must expire on the minor's attainment of majority. See RCW 11.130.215(7) "(7) An order granting guardianship for a minor must direct the clerk of the court to issue letters of office to the guardian containing an expiration date which should be the minor's eighteenth birthday."

A minor's birthdate is a personal identifier entitled to protection under state law. The suggested changes to GR 22 provide a mechanism to seal the Letters of Office to maintain the confidentiality of this information.

Other technical changes. Other technical changes involve amendments to statutory references and to guardianship nomenclature contained in statute.

The definition of "guardianship case" to include all actions under RCW 11.130, including actions for conservatorships and other protective arrangements in addition to guardianship actions, means all three case types will be covered by revised GR 22.

Other nomenclature related suggested changes include:

a) Persons subject to guardianship, conservatorship or other protective arrangement proceedings are "respondents" under the UGA.

b) Persons subject to guardianship or conservatorship are an "individual subject to guardianship" or an "individual subject to conservatorship". Persons subject to a protective arrangement are not separately defined under the UGA.

c) "Court visitor" and "Visitor" are new statutory terms that encompass investigation and reporting to the court on various issues as delineated in statute. Under the statute, a "visitor" is defined as "a court visitor". Therefore the terms can be used interchangeably, and both terms are used in statute.

The role of the court visitor is in lieu of the guardian ad litem in most proceedings, but does not replace the role of a guardian ad litem in guardianships in its entirety.

(D) Hearing: None requested.

(E) Expedited Consideration: Requested. The UGCOPAA (aka UGA) has an effective date of January 1, 2021 with respect to minor guardianship.

SUGGESTED AMENDMENTS TO GR 22

ACCESS TO FAMILY LAW AND GUARDIANSHIP COURT RECORDS

(a) Purpose and Scope of this Rule. This rule governs access to family law and guardianship court records, whether the records are maintained in paper or electronic form. The policy of the courts is to facilitate public access to court records, provided that such access will not present an unreasonable invasion of personal privacy, will not permit access to records or information defined by law or court rule as confidential, sealed, exempted from disclosure, or otherwise restricted from public access, and will not be unduly burdensome to the ongoing business of the courts.

(b) Definition and Construction of Terms.

(1) "Court record" is defined in GR 31 (c) (4).

(2) "Family law case or guardianship case" means any case filed under Chapters 11.88, 11.92, 11.130, 26.09, 26.10, 26.12, 26.18, 26.21, 26.23, 26.26, 26.27, 26.50, 26.52, 73.36 and 74.34 RCW.

(3) "Personal Health Care Record" means any record or correspondence that contains health information that: (1) relates to the past, present, or future physical or mental health condition of an individual including past, present, or future payments for health care; or (2) involves genetic parentage testing.

(4) "Personal Privacy" is unreasonably invaded only if disclosure of information about the person or the family (a) would be highly offensive to a reasonable person and (b) is not of legitimate concern to the public.

(5) "Public access" means unrestricted access to view or copy a requested court record.

(6) "Restricted personal identifiers" means a party's social security number, a party's driver's license number, a party's telephone number, financial account numbers, social security number of a minor child and date of birth of a minor child.

Comment

A party is not required to provide a residence address. Petitioners or counsel to a family law case will provide a service or contact address in accordance with CR 4.1 that will be publicly available and all parties and counsel should provide a contact address if otherwise required. Pattern forms shall be modified, as necessary, to reflect the intent of this rule.

(7) "Retirement plan order" means a supplemental order entered for the sole purpose of implementing a property division that is already set forth in a separate order or decree in a family law case. A retirement plan order may not grant substantive relief other than what is set forth in a separate order. Examples of retirement plan orders are orders that implement a division of retirement, pension, insurance, military, or similar benefits as already defined in a decree of dissolution of marriage.

(8) "Sealed financial source documents" means income tax returns, W-2s and schedules, wage stubs, credit card statements, financial institution statements, checks or the equivalent, check registers, loan application documents, and retirement plan orders, as well as other financial information sealed by court order.

(9) "Sealed documents containing Restricted Personal Identifiers" means a document containing one or more Restricted Personal Identifier required by statute.

(c) Access to Family Law or Guardianship Court Records.

(1) *General Policy.* Except as provided in RCW ~~26.26.610(2)~~ 26.26A.500 and subsections (c) (2) and (c) (3) below, all court records shall be open to the public for inspection and copying upon request. The Clerk of the court may assess fees, as may be authorized by law, for the production of such records.

(2) *Restricted Access.* The Confidential Information Form, Sealed Financial Source Documents, Sealed Documents containing Restricted Personal Identifiers, Domestic Violence Information Form, Notice of Intent to Relocate required by RCW 26.09.440, Sealed Personal Health Care Record, Retirement Plan Order, Confidential Reports as defined in (e) (2) (B), copies of any unredacted Judicial Information System (JIS) database information considered by the court for parenting plan approval as set forth in (f) of this rule, and any Personal Information

Sheet necessary for JIS purposes shall only be accessible as provided in sections (h) and (i) herein.

(3) *Excluded Records*. This section (c) does not apply to court records that are sealed as provided in GR 15, or to which access is otherwise restricted by law.

(d) Restricted Personal Identifiers Not Required—Except. Parties to a family law case or the ~~protected person~~ respondent, individual subject to guardianship, conservatorship or other protective arrangement, or other party in a guardianship case shall not be required to provide restricted personal identifiers in any document filed with the court or required to be provided upon filing a family law or guardianship case, except:

(1) "Sealed financial source documents" or "Sealed documents containing Restricted Personal Identifiers" filed in accordance with (g) (1).

(2) The following forms: Confidential Information Form, Domestic Violence Information Form, Notice of Intent to Relocate required by RCW 26.09.440, Vital Statistics Form, Law Enforcement Information Form, Foreign Protection Order Information Form, and any Personal Information Sheet necessary for JIS purposes.

(3) Court requested documents that contain restricted personal identifiers, which may be submitted by a party as financial source documents or in a document containing restricted personal identifiers under the provisions of section (g) of this rule.

Comment

Court records not meeting the definition of "Sealed Financial Source Documents," "Sealed documents containing Restricted Personal Identifiers" "Personal Health Care Records," Retirement Plan Orders, Confidential Reports or court records that otherwise meet the definition but have not been submitted in accordance with (g) (1) are not automatically sealed. Section (3) provides authority for the court to seal court records containing restricted personal identifiers upon motion of a party, or on the court's own motion during a hearing or trial.

(e) Filing of Reports in Family Law and Guardianship cases--Cover Sheet.

(1) This section applies to documents that are intended as reports to the court in Family law and Guardianship cases including, but not limited to, the following:

(A) Parenting evaluations;

(B) Domestic Violence Assessment Reports created by Family Court Services or a qualified expert appointed by the court;

(C) Risk Assessment Reports created by Family Court Services or a qualified expert;

(D) CPS Summary Reports created by Family Court Services or supplied directly by Children's Protective Services;

(E) Sexual abuse evaluations; and

(F) Reports of a guardian ad litem or Court Appointed Special Advocate or visitor or court visitor.

(2) Reports shall be filed as two separate documents, one public and one sealed.

(A) Public Document. The public portion of any report shall include a simple listing of:

(i) Materials or information reviewed;

(ii) Individuals contacted;

- (iii) Tests conducted or reviewed; and
- (iv) Conclusions and recommendations.

(B) Sealed Document. The sealed portion of the report shall be filed with a coversheet designated: "Sealed Confidential Report." The material filed with this coversheet shall include:

- (i) Detailed descriptions of material or information gathered or reviewed;
 - (ii) Detailed descriptions of all statements reviewed or taken;
 - (iii) Detailed descriptions of tests conducted or reviewed; and
 - (iv) Any analysis to support the conclusions and recommendations.
- (3) The sealed portion may not be placed in the court file or used as an attachment or exhibit to any other document except under seal.

(f) Information Obtained from JIS Databases with Regard to Approval of a Parenting Plan.

When a judicial officer proposes to consider information from a JIS database relevant to the placement of a child in a parenting plan, the judicial officer shall either orally disclose on the record or disclose the relevant information in written form to each party present at the hearing, and, on timely request, provide any party an opportunity to be heard regarding that information. The judicial officer has discretion not to disclose information that he or she does not propose to consider. The judicial officer may restrict secondary dissemination of written unredacted JIS database information not available to the public.

(g) Sealing Financial Source Documents, Sealed documents containing Restricted Personal Identifiers, Personal Health Care Records, and Sealed Confidential Reports in Family Law and Guardianship cases—Cover Sheet.

(1) Financial source documents, documents containing Restricted Personal Identifiers, personal health care records, confidential reports as defined in (e) (2) (B) of this rule, and copies of unredacted JIS database records considered by the court for parenting plan approval as set forth in (f) of this rule, shall be submitted to the clerk under a cover sheet designated "SEALED FINANCIAL SOURCE DOCUMENTS," "SEALED DOCUMENTS CONTAINING RESTRICTED PERSONAL IDENTIFIERS," "SEALED PERSONAL HEALTH CARE RECORDS," "SEALED CONFIDENTIAL REPORT" OR "JUDICIAL INFORMATION SYSTEM DATABASE RECORDS" for filing in the court record of family law or guardianship cases.

(2) All financial source documents, documents containing restricted personal identifiers, personal health care records, confidential reports, or JIS database records so submitted shall be automatically sealed by the clerk. The cover sheet or a copy thereof shall remain part of the public court file.

(3) The court may order that any financial source documents or other documents containing restricted personal identifiers, personal health care records, any report containing information described in (e) (2) (B), or copies of unredacted JIS database records considered by the court for parenting plan approval as described in (f) be sealed, if they have not previously automatically been sealed pursuant to this rule.

(4) These cover sheets may not be used for any documents except as provided in this rule. Sanctions may be imposed upon any party or attorney who violates this rule.

Comment

See comment to (d) (3) above.

(h) Access by Courts, Agencies, and Parties to Restricted Documents.

(1) Unless otherwise provided by statute or court order, the following persons shall have access to all records in family law or guardianship cases:

(A) Judges, commissioners, other court personnel, the Commission on Judicial Conduct, and the Certified Professional Guardian Board may access and use restricted court records only for the purpose of conducting official business of the court, Commission, or Board.

(B) Any state administrative agency of any state that administers programs under Title IV-A, IV-D, IV-E, or XIX of the federal Social Security Act.

(2) Except as otherwise provided by statute or court order, the following persons shall have access to all documents filed in a family law or guardianship case, except the Personal Information Sheet, Vital Statistics Form, Confidential Information Form, Domestic Violence Information Form, Law Enforcement Information Form, and Foreign Protection Order Form.

(A) Parties of record as to their case.

(B) Attorneys as to cases where they are attorneys of record.

(C) Court appointed Title 11 guardians ad litem, visitor or court visitor as to cases where they are actively involved.

(i) Access to Court Records Restricted Under This Rule.

(1) The parties may stipulate in writing to allow public access to any court records otherwise restricted under section (c)(2) above.

(2) Any person may file a motion, supported by an affidavit showing good cause, for access to any court record otherwise restricted under section (c)(2) above, or to be granted access to such court records with specified information deleted. Written notice of the motion shall be provided to all parties in the manner required by the Superior Court Civil Rules. If the person seeking access cannot locate a party to provide the notice required by this rule, after making a good faith reasonable effort to provide such notice as required by the Superior Court Rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provision of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are not likely to be successful, or if the motion requests access to redacted JIS database records.

(A) The court shall allow access to court records restricted under this rule, or relevant portions of court records restricted under this rule, if the court finds that the public interests in granting access or the personal interest of the person seeking access outweigh the privacy and safety interests of the parties or dependent children.

(B) Upon receipt of a motion requesting access, the court may provide access to JIS database records described in (f) after the court has reviewed the JIS database records and redacted pursuant to GR 15(c), any data which is confidential or restricted by statute or court rule.

(C) If the court grants access to restricted court records, the court may enter such orders necessary to balance the personal privacy and safety interests of the parties or dependent children with the public interest or the personal interest of the party seeking access, consistent with this rule.

[Adopted effective October 1, 2001; Amended effective July 1, 2006; August 11, 2009.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 21-04-089
RULES OF COURT
STATE SUPREME COURT
[December 2, 2020]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENT TO GR) NO. 25700-A-1330
23—RULE FOR CERTIFYING)
PROFESSIONAL GUARDIANS AND)
CONSERVATORS)

The Certified Professional Guardianship Board, having recommended the suggested amendment to GR 23—Rule for Certifying Professional Guardians and Conservators, and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 2nd day of December, 2020.

For the Court

Stephens, C.J.

CHIEF JUSTICE

SUGGESTED AMENDMENTS TO GENERAL RULE (GR) 23
RULE FOR CERTIFYING PROFESSIONAL GUARDIANS

(A) Name of Proponent: Certified Professional Guardianship Board ("Board" herein)

(B) Spokesperson: Judge Rachelle Anderson, Chair, Certified Professional Guardianship Board

(C) Purpose: The suggested amendments aim to align General Rule 23 with changes to nomenclature and qualifications of guardians pursuant to the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (or "UGA") as codified at RCW 11.130. The UGA becomes effective on January 1, 2022, with the exception of the provisions covering minor guardianship, which become effective January 1, 2021. The suggested amendments also propose to change the formal education requirement for professional guardians currently contained in GR 23. The Board requests the Court to consider whether the profession may benefit from allowing individuals to become certified who may have lacked access to higher education, but who possess substantial relevant experience and complete Board required training.

Introduction

A guardian is a person appointed by the superior court to make decisions on behalf of a person who does not possess legal capacity.

A guardian may be appointed to make all decisions on behalf of a person (full guardianship) or a defined decision or subset of decisions (limited guardianship). Further, a guardian may be appointed to make decisions with respect to health, safety and welfare of an individual (guardian of the person) or with respect to an individual's finances (guardian of the estate) or both.

The superior court may appoint as guardian a family member, friend, volunteer, or a "professional guardian." A professional guardian is paid to provide guardianship services to three or more persons under both current law and the UGA. See RCW 11.88.008 and RCW 11.130.010(26).

To qualify for appointment by the superior court, a professional guardian must meet the certification requirements established by the administrator of the courts under current law and the UGA. See RCW 11.88.020(1) and RCW 11.130.090(1) (with limited statutory exceptions). Certification requirements include completion of training as determined by the Board. The Supreme Court delegated authority and responsibility to develop, adopt and implement regulations governing certification, minimum standards of practice, training, and discipline of professional guardians, to protect the public and facilitate the delivery of competent and ethical guardianship services to the Board in General Rule 23.

I. Align GR 23 with nomenclature and guardian qualifications of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA)

The UGA promotes using person-centered language including replacing the terms "ward" and "incapacitated person" with "individual subject to guardianship or conservatorship." The UGA also introduces "conservatorship" in lieu of "guardian of the estate." The UGA includes sections providing for court orders of a protective arrangement for an individual in lieu of guardianship or conservatorship, but based upon the same capacity determinations. The UGA also focuses on lesser restrictive alternatives, including provisions governing supported decision making agreements.

The suggested changes include technical reference to the correct Chapters of the RCW. Suggested changes include replacing the terms "guardian of the estate," "guardianship of the estate" and "incapacitated person" with "conservator," "conservatorship" and "individual subject to guardianship" or "individual subject to conservatorship" respectively. The suggested changes align the age requirements and define the criminal convictions, court or administrative proceedings findings that may disqualify an individual from certification, as well as required disclosures. The suggested title of GR 23 and the Board's name clarify that GR 23 governs both the practice of guardianship, which involves making decisions about the personal affairs of another person, and conservatorship, which involves management of another person's property and financial affairs. The suggested changes restate the functions of the Board as expressed by the Court in case law.

II. Change in the Formal Education Minimum Requirement

Currently, GR 23 requires that an applicant possess a minimum of a two year associates degree to qualify for certification. The Board considered the various complex pros and cons of retaining the formal education minimum requirement. Ultimately, the Board concluded that it would be making an important statement about diversity and inclusion by suggesting changing the requirement. This suggestion acknowledges

that the post-secondary education requirement has acted as a barrier for communities within the state that have historically not had resources and access to higher education. Further, the Board bases its recommendation on the pillars of the substantial relevant experience requirement (five years) and the robust training program that the Board requires applicants to complete, in addition to meeting all other application requirements.

Another key consideration was that of language and cultural competency of CPG services and the needs of underserved communities. The Board took note of the issue of underserved communities across the state. This suggested change may allow Washington's vulnerable populations to be better served by establishing a path for individuals who for historical reasons have not had access to higher education, but bring knowledge, skills and competencies of great value to Washington's diverse population of vulnerable individuals.

Recommendations

The Board considered these suggestions and voted to approve the suggested amendments.

(D) Hearing: None requested.

(E) Expedited Consideration: Is not requested.

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

SUGGESTED AMENDMENTS TO GR 23

RULE FOR CERTIFYING PROFESSIONAL GUARDIANS AND CONSERVATORS

(a) Purpose and Scope. This rule establishes the standards and criteria for the certification of professional guardians and conservators as defined by RCW ~~11.88.008~~ 11.130.010(26) and prescribes the conditions of and limitations upon their activities. This rule does not duplicate the statutory process by which the courts supervise guardians and conservators nor is it a mechanism to appeal a court decision regarding the appointment or ~~conduct~~ statutory duties of a professional guardian or conservator.

(b) Jurisdiction. All professional guardians and conservators who practice in the state of Washington are subject to these rules and regulations. Jurisdiction shall continue whether or not the professional guardian and conservator retains certification under this rule, and regardless of the professional guardian's and conservator's residence.

(c) Certified Professional Guardianship and Conservatorship Board.

(1) Establishment.

(i) Membership. The Supreme Court shall appoint a Certified Professional Guardianship and Conservatorship Board (Board) of 12 or more members. The Board shall include representatives from the following areas of expertise: professional guardians and conservators; attorneys; advocates for ~~incapacitated persons~~ individuals subject to guardianship and conservatorship; courts; state agencies; and those employed in medical, social, health, financial, or other fields pertinent to guardianships and conservatorships. No more than one-third of the Board membership shall be practicing professional guardians and conservators.

(ii) Terms. The term for a member of the Board shall be three years. No member may serve more than three consecutive full three-year terms, not to exceed nine consecutive years, including any unfilled term. Terms shall be established such that one-third shall end each

year. All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later.

(iii) Leadership. The Supreme Court shall designate the Chair of the Board. The Board shall designate the Vice-Chair, who shall serve in the absence of or at the request of the Chair.

(iv) Vacancies. Any vacancy occurring in the terms of office of Board members shall be filled for the unexpired term.

(2) Authority. The Court authorizes and grants to the Board jurisdiction to oversee the certification, regulation, investigation and discipline of professional guardian and conservators and related agencies.¹

¹ This section codifies a central tenet of the Supreme Court's decision re: In the Matter of Disciplinary Proceeding Against Petersen 180 Wn. 2d 768 (2014)

~~(23)~~ Duties and Powers.

(i) Applications. The Board shall process applications for professional guardian and conservator certification under this rule. The Board may delay or deny certification if an applicant fails to provide required ~~basic or supplemental~~ information.

(ii) Standards of Practice. The Board shall adopt and implement policies or regulations setting forth minimum standards of practice which professional guardians and conservators shall meet.

(iii) Training Program. The Board shall adopt and implement regulations establishing a professional guardian and conservator training program.

(iv) Examination. The Board may adopt and implement regulations governing the preparation and administration of certification examinations.

(v) Recommendation of Certification. The Board may recommend certification to the Supreme Court. The Supreme Court shall review the Board's recommendation and enter an appropriate order.

(vi) Denial of Certification. The Board may deny certification. If the Board denies certification, it shall notify an applicant in writing of the basis for denial of certification and inform the applicant of the appeal process.

(vii) Continuing Education. The Board may adopt and implement regulations for continuing education.

(viii) Grievances and Disciplinary Sanctions. The Board shall adopt and implement procedures to review any allegation that a professional guardian and conservator has violated an applicable statute, fiduciary duty, court order, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians and conservators. The Board may take disciplinary action and impose disciplinary sanctions based on findings that establish a violation of an applicable statute, duty, court order, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians and conservators. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians and conservators.

(ix) Investigation. The Board may investigate to determine whether an applicant for certification meets the certification requirements established in this rule. The Board may also investigate to determine whether a professional guardian and conservator has violated any statute, fiduciary duty, court order, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians and conservators.

(x) Authority to Conduct Hearings. The Board may adopt regulations pertaining to the orderly conduct of hearings.

(a) Subpoenas. The Chair of the Board, Hearing Officer, or a party's attorney shall have the power to issue subpoenas.

(b) Orders. The Chair or Hearing Officer may make such pre-hearing or other orders as are necessary for the orderly conduct of any hearing.

(c) Enforcement. The Board may refer a Subpoena or order to the Supreme Court for enforcement.

(xi) Disclosure of Records. The Board may adopt regulations pertaining to the disclosure of records in the Board's possession.

(xii) Meetings. The Board shall hold meetings as determined to be necessary by the eChair. Meetings of the Board will be open to the public except for executive session, review panel, or disciplinary meetings prior to filing of a disciplinary complaint.

(xiii) Fees. The Board shall establish and collect fees in such amounts as are necessary to support the duties and responsibilities of the Board.

(34) Board Expenses. Board members shall not be compensated for their services. Consistent with the Office of Financial Management rules, Board members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid pursuant to a budget submitted to and approved by the Supreme Court. Funds accumulated from examination fees, annual fees, and other revenues shall be used to defray Board expenses.

(45) Agency. Hearing officers are agents of the Board and are accorded rights of such agency.

(56) Immunity from Liability. The Board, its members, or agents, including duly appointed hearing officers, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.

(67) Conflict of Interest. A Board member should disqualify himself or herself from making any decisions in a proceeding in which his or her impartiality might reasonably be questioned, including but not limited to, when the Board member has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding.

(78) Leave of Absence. The Board may adopt regulations specifying that a Board member who is the subject of a disciplinary investigation by the Board must take a leave of absence from the Board. A Board member may not continue to serve as a member of the Board if the Board or Supreme Court has imposed a final disciplinary sanction on the Board member.

(89) Administration. The Administrative Office of the Courts (AOC) shall provide administrative support to the Board and may contract with agencies or organizations to carry out the Board's administrative functions.

(d) Certification Requirements. Applicants, Certified Professional Guardians and Conservators, and Certified Agencies shall comply with the provisions of Chapter ~~11.88~~ and ~~11.92~~ 11.130 RCW. In addition, individuals and agencies must meet the following minimum requirements.

(1) Individual Certification. The following requirements apply to applicants ~~and do not apply to currently certified professional guardians, except as stated in subsection (d)(1)(vii).~~ An individual applicant shall:

(i) Be at least ~~18~~ 21 years of age;

(ii) Be of sound mind;

~~(iii) Have no felony or misdemeanor convictions involving moral turpitude convictions of a crime, or court or administrative proceeding findings, involving dishonesty, neglect, abuse, or use of physical force;~~

~~(iv) Have no convictions of a crime, or court or administrative proceeding findings, relevant to the functions the individual would assume as a guardian or conservator;~~

~~(iv) Possess a high school degree or GED equivalent and at least five full years' experience working in a discipline pertinent to the provision of guardianship and conservatorship services, or possess an associate's degree from an accredited institution and at least four full years' experience working in a discipline pertinent to the provision of guardianship and conservatorship services, or a baccalaureate degree from an accredited institution and at least two full years' experience working in a discipline pertinent to the provision of guardianship and conservatorship services, or a Masters, J.D., Ph.D., or equivalent advanced degree from an accredited institution and at least one year's experience working in a discipline pertinent to the provision of guardianship and conservatorship services;~~

~~(v) The experience required by this rule is experience in which the applicant has developed skills that are transferable to the provision of guardianship and conservatorship services and must include decision-making or the use of independent judgment for the benefit of others, not limited to incapacitated persons individuals subject to guardianship or conservatorship, in the area of legal, financial, social services or healthcare or other disciplines pertinent to the provision of guardianship and conservatorship services;~~

~~(vii) Have completed the mandatory certification training.~~

~~(vii) Applicants enrolled in the mandatory certification training on September 12, 2008, and who satisfactorily complete that training, shall meet the certification requirements existing on that date, or the date the applicant submitted a complete application for certification, whichever date is earlier, and not the requirements set forth in this rule.~~

~~(viii) An individual certified under this General Rule prior to January 1, 2022 and in good standing under all Board regulations will automatically continue to be certified as a Certified Professional Guardian and Conservator (CPGC) as of January 1, 2022.~~

(2) Agency Certification. Agencies must meet the following additional requirements:

(i) All officers and directors of the corporation must meet the qualifications of RCW ~~11.88.020~~ 11.130.090 for guardians and conservators;

(ii) Each agency shall have at least two (2) individuals in the agency certified as professional guardians and conservators, whose residence or principal place of business is in Washington State and who are so designated in minutes or a resolution from the Board of Directors; and

(iii) Each agency shall file and maintain in every guardianship and conservatorship court file a current designation of each certified professional guardian and conservator with final decision-making authority for the ~~incapacitated person~~ individual subject to guardianship or individual subject to conservatorship or their estate.

(3) Training Program and Examination. Applicants must satisfy the Board's training program and examination requirements.

(4) Insurance Coverage. In addition to the bonding requirements of chapter ~~11.88~~ 11.130.040 RCW, applicants must be insured ~~or bonded~~ at all times in such amount as may be determined by the Board and shall notify the Board immediately of cancellation of required coverage.

(5) Financial Responsibility. Applicants must provide proof of ability to respond to damages resulting from acts or omissions in the performance of services as a guardian or conservator. Proof of financial responsibility shall be in such form and in such amount as the Board may prescribe by regulation.

(6) Application Under Oath. Applicants must execute and file with the Board an approved application under oath.

(7) Application Fees. Applicants must pay fees as the Board may require by regulation.

(8) Disclosure. An applicant for certified professional guardian and conservator or certified agency shall disclose upon application:

(i) The existence of a judgment against the applicant arising from the applicant's performance of services as a fiduciary;

(ii) Any court finding that the applicant has violated its duties as a fiduciary, or committed a felony or any crime involving moral turpitude or has violated federal or any state's consumer protection act or violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of business;

(iii) Any felony convictions;

(iv) Any criminal convictions, or any court or administrative proceeding findings, involving dishonesty, neglect, abuse, violence, or use of physical force;

(v) Any criminal convictions, or any court or administrative proceeding findings, relevant to the functions assumed as guardian or conservator;

(~~vi~~) Any adjudication of the types specified in RCW 43.43.830 and RCW 43.43.842 (laws restricting access to, and professional licensing with respect to working with, vulnerable adults and children);

(~~vii~~) Pending or final licensing or disciplinary board actions or findings of violations;

(~~viii~~) The existence of a judgment against the applicant within the preceding eight years in any civil action;

(~~ix~~) Whether the applicant has filed for bankruptcy within the last seven years is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding. Disclosure of a bankruptcy filing within the past seven years may require the applicant or guardian and conservator to provide a personal credit report from a recognized credit reporting bureau satisfactory to the Board;

(~~x~~) The existence of a judgment against the applicant or any corporation, partnership or limited liability ~~corporation~~ company for which the applicant was a managing partner, controlling member or majority shareholder within the preceding eight years in any civil action.

(9) Denial of Certification. The Board may deny certification of an individual or agency based on any of the following criteria:

(i) Failure to satisfy certification requirements provided in section (d) of this rule;

(ii) The existence of a judgment against the applicant arising from the applicant's performance of services as a fiduciary;

(iii) Any court finding that the applicant has violated its fiduciary duties or committed a felony or any crime involving moral turpitude or has violated federal or any state's consumer protection act or

violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of business;

(iv) Any felony convictions;

(v) Any criminal convictions, or any court or administrative proceeding findings, involving dishonesty, neglect, abuse, violence, or use of physical force;

(vi) Any criminal convictions, or any court or administrative proceeding findings, relevant to the functions assumed as guardian or conservator;

(vii) Any adjudication of the types specified in RCW 43.43.830 and RCW 43.43.842 (laws restricting access to, and professional licensing with respect to working with, vulnerable adults and children);

(viii) Pending or final licensing or disciplinary board actions or findings of violations;

(ix) A Board determination based on specific findings that the applicant lacks the requisite moral character or is otherwise unqualified to practice as a professional guardian and conservator;

(x) A Board determination based on specific findings that the applicant's financial responsibility background is unsatisfactory.

(10) Designation/Title. An individual certified under this rule may use the initials "CPGC" following the individual's name to indicate status as "Certified Professional Guardian and Conservator." An agency certified under this rule may indicate that it is a "Certified Professional Guardian and Conservator Agency" by using the initials "CPGCA" after its name. An individual or agency may not use the term "certified professional guardian and conservator" or "certified professional guardian and conservator agency" as part of a business name.

(e) Guardian and Conservator Disclosure Requirements.

(1) A Certified Professional Guardian and Conservator or Certified Agency shall disclose to the Board in writing within 30 days of occurrence:

(i) The existence of a judgment against the professional guardian and conservator arising from the professional guardian and conservator's performance of services as a fiduciary;

(ii) Any court finding that the professional guardian and conservator violated its fiduciary duties, ~~or committed a felony or any crime involving moral turpitude~~ or has violated federal or any state's consumer protection act or violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of business;

(iii) Any felony convictions;

(iv) Any criminal convictions, or any court or administrative proceedings findings, involving dishonesty, neglect, abuse, violence, or use of physical force;

(v) Any criminal convictions, or any court or administrative proceedings findings relevant to the functions assumed as guardian or conservator;

(vi) Any adjudication of the types specified in RCW 43.43.830 and RCW 43.43.842 (laws restricting access to, and professional licensing with respect to working with, vulnerable adults and children);

(vii) Pending licensing or disciplinary actions related to fiduciary responsibilities or final licensing or disciplinary actions resulting in findings of violations;

(viii) Residential or business moves or changes in employment;

and

(ix) Names of Certified Professional Guardians and Conservators and they employ or who leave their employ.

(2) Not later than June 30 of each year, each professional guardian and conservator and guardian and conservator agency shall complete and submit an annual disclosure statement providing information required by the Board.

(f) Regulations. The Board shall adopt regulations to implement this rule.

(g) Personal Identification Number. The Board shall establish an identification numbering system for professional guardians and conservators. The Personal Identification Number shall be included with the professional guardian's and conservator's signature on documents filed with the court.

(h) Ethics Advisory Opinions, Comments, and Best Practices.

(1) The Board may issue written ethics advisory opinions, comments and best practices to inform and advise Certified Professional Guardians and Conservators and Certified Agencies of their ethical obligations.

(2) Any Certified Professional Guardian and Conservator or Certified Agency may request in writing an ethical advisory opinion from the Board. Compliance with an opinion issued by the Board shall be considered as evidence of good faith in any subsequent disciplinary proceeding involving a Certified Professional Guardian and Conservator or Certified Agency.

(3) The Board shall publish opinions issued pursuant to this rule in electronic or paper format. The identity of the person requesting an opinion is confidential and not public information.

(i) Existing Law Unchanged. This rule shall not expand, narrow, or otherwise affect existing law, including but not limited to, Title 11 RCW.

[Adopted effective January 25, 2000; amended effective April 30, 2002; April 1, 2003; September 1, 2004; January 13, 2009; September 1, 2010;]

WSR 21-04-090
RULES OF COURT
STATE SUPREME COURT
[December 2, 2020]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [21-05](#) issue of the Register.

WSR 21-04-091
RULES OF COURT
STATE SUPREME COURT
[December 2, 2020]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENT TO RPC) NO. 25700-A-1332
6.5—NONPROFIT AND COURT-)
ANNEXED LIMITED LEGAL)
SERVICE PROGRAMS)

Washington State's Pro Bono Council, having recommended the suggested amendment to RPC 6.5—Nonprofit and Court-Annexed Limited Legal Service Programs, and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 2nd day of December, 2020.

For the Court

Stephens, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendment to

RULES OF PROFESSIONAL CONDUCT (RPC)

Rule 6.5 — NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICE PROGRAMS

Submitted by the Pro Bono Council

A. Name of Proponent:

Pro Bono Council. As a subcommittee of the Washington State Access to Justice Board, the Pro Bono Council is a convening body that supports and advocates for the sixteen volunteer lawyer programs across the State.

B. Spokesperson:

Michael Terasaki
Pro Bono Council Manager
Michael@probonocouncil.org
1239 120th Avenue NE, Suite J
Bellevue 98005
(425)495-0132

C. Purpose:

To obtain clarifying language and comment to Rule of Professional Conduct (RPC) 6.5 allowing a limited legal service program to provide notice, as described in paragraph (a)(3) of the Rule, at the time an individual applies for service, regardless of whether an actual conflict exists at that time.

RPC 6.5 allows non-profit and court-annexed limited legal services programs to offer short-term legal services to clients whose legal interests may be in conflict by exempting such representation from RPCs 1.7, 1.9(a), and 1.18(c), unless a participating lawyer has personal knowledge of a conflict and the conflict cannot be mitigated by specific screening measures. This exemption maximizes the limited resources of limited legal service programs and participating lawyers (pro bono and staff) to provide free legal help to eligible persons. A limited legal service program must utilize effective screening mechanisms to ensure confidential information is not disseminated to an attorney who is disqualified from assisting a client with competing interests because of a known personal conflict.¹ A limited legal service program must provide each client with notice of the conflict and the screening mechanisms used to avoid the dissemination of confidential information relating to the representation of the competing interests.² Finally, a limited legal service program must also be able to demonstrate by convincing evidence that no material information relating to the representation was transmitted to the opposing client's attorney.³

- 1 RPC 6.5 (a)(3)(i)
- 2 RPC 6.5 (a)(3)(ii)
- 3 RPC 6.5 (a)(3)(iii)

Neither the rule nor the comments prescribe how the notice is to be provided, but as currently written, in a known conflict situation, providing individualized notice of an actual conflict creates the potential for inconsistency with the duty of confidentiality codified in RPC 1.6 because the identity of clients involved in the conflict can logically be traced by receipt of that notice alone. This is particularly concerning in many of the cases handled by limited legal service programs in Washington State, because providing individualized notice of a conflict creates safety issues for actual and potential clients who may be seeking protection orders.

Client safety issues in limited legal services programs often arise in cases involving domestic violence. Protection from domestic violence is an area of significant legal need across the country and in Washington. This is borne out by the Washington State Supreme Court-sponsored Civil Legal Needs Study Update of 2015 (Study). The Study found that 71 percent of low-income households in Washington face at least one civil legal problem during a 12-month period.⁴ Further, 76 percent of persons living in poverty who have significant legal needs in Washington cannot get the legal help or representation they need to resolve the problem.⁵ More importantly for purposes of this suggested amendment, the Study confirmed that victims of domestic violence and/or sexual assault experience the highest number of legal problems per capita of any group: low-income Washingtonians who have suffered domestic violence or been a victim of sexual assault experience an average of 19.7 legal problems per household, twice the average experienced by the general low-income population.⁶

- 4 2015 Washington State Civil Legal Needs Study Update, p. 5, at https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf.
- 5 *Id.* at p. 15.
- 6 *Id.* at p. 13.

Several limited legal service programs, including volunteer lawyer programs, offer legal advice clinics for survivors of domestic violence (DV). If a DV survivor seeks legal aid services while their abuser is a current or former client of that program, under RPC 1.7 or 1.9 there could be a conflict of interest. As described above, RPC 6.5 allows a limited legal service program to provide short-term limited assistance to the conflicted client, who may be the victim/survivor, through the mechanism of screening any personally conflicted attorney(s) from the case and notifying both parties. The current process raises the immediate concern that providing individualized notice of the actual conflict to each party creates an imminent risk of harm to the victim by alerting an alleged DV perpetrator that their victim is seeking legal advice. Thus, the current notice requirement puts the safety of victims/survivors in greater jeopardy. As a collateral matter, RPC 1.6 counsels the exercise of caution when disclosing client information that is likely to result in imminent harm to a third-party.⁷ As a result of the lack of clarity on this issue, some limited legal service programs opt instead to follow a strict policy of not accepting clients where there is a known conflict, which then results in the opposite outcome to the underlying goal of RPC 6.5: to increase access to free limited legal services for low-income Washingtonians.

⁷ See RPC 1.6 Comment [6].

The suggested amendment to RPC 6.5 provides important clarity regarding the notice requirement. This guidance will enable any non-profit or court-annexed limited legal service program that satisfies the provisions of RPC 6.5(a) to serve clients who face compounding challenges to seeking legal assistance and who might otherwise be barred from obtaining the help they need due to barriers unwittingly posed by the RPCs. At the same time, limited legal service programs are able to help keep those clients safe during the course of their legal matter without fear of increasing their risk of harm. The suggested amendment will allow limited legal service programs to notify ALL actual and potential clients at the time an individual applies for help of the potential for conflicts and information about the screening mechanisms. This fulfills RPC 6.5's goal to maximize the accessibility of legal aid to as many individuals as possible while still protecting an individual client's interests, safety and confidentiality within the bounds of attorneys' professional duties.

Additionally, providing notice of the potential for conflicts and the screening mechanisms to all applicants for short-term legal services creates an opportunity for applicants to immediately opt out of receiving services if they feel doing so would be in their best interests. Providing notice only after an actual conflict arises, as usually happens under the current rule, allows no opportunity for clients to opt out or raise objections beforehand.

D. Hearing:

A hearing is not requested, but if the Court seeks further information or a hearing, the Pro Bono Council is happy to make itself available and requests notice of any relevant hearing calendared. The Pro Bono Council has conducted stakeholder outreach on this issue. Please see the attached supporting materials.

E. Expedited Consideration:

Expedited consideration is requested and is proper in order to protect the safety of legal aid clients. The ongoing COVID-19 related crisis and associated legal issues, including evictions, have brought an unprecedented number of new legal aid clients. This increase in

volume will necessarily result in an increase in the potential for conflicts, and in order to protect the physical safety of as many legal aid clients as possible, and in light of the significant open comment period already conducted, the Pro Bono Council requests the proposed changes be implemented as soon as possible.

F. Supporting Materials:

Statement regarding stakeholder outreach conducted by Pro Bono Council

SUGGESTED RULE CHANGES

RULES OF PROFESSIONAL CONDUCT

Recommended by the Pro Bono Council

RPC 6.5

NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICE PROGRAMS

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter and without expectation that the lawyer will receive a fee from the client for the services provided:

(1) is subject to Rules 1.7, 1.9(a), and 1.18(c) only if the lawyer knows that the representation of the client involves a conflict of interest, except that those Rules shall not prohibit a lawyer from providing limited legal services sufficient only to determine eligibility of the client for assistance by the program and to make an appropriate referral of the client to another program;

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer or LLLT associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) or by LLLT RPC 1.7 and LLLT RPC 1.9(a) with respect to the matter; and

(3) notwithstanding paragraphs (1) and (2), is not subject to Rules 1.7, 1.9(a), 1.10, or 1.18(c) in providing limited legal services to a client if:

(i) the program lawyers or LLLTs representing the opposing clients are screened by effective means from information relating to the representation of the opposing client;

(ii) each client is notified of the conflict and the screening mechanism used to prohibit dissemination of information relating to the representation; such notice, may be given prospectively; and

(iii) the program is able to demonstrate by convincing evidence that no material information relating to the representation of the opposing client was transmitted by the personally disqualified lawyers or LLLTs to the lawyer representing the conflicting client before implementation of the screening mechanism and notice to the opposing client.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

(c) Prospective notice shall satisfy the requirements of (a)(3)(ii) only if the assistance provided to both conflicting clients is limited legal service as governed by Rule 6.5.

[Adopted effective October 29, 2002; amended effective September 1, 2006; April 14, 2015.]

Comment

[1] [Washington revision] Legal services organizations, courts and various nonprofit organizations have established programs through

which lawyers provide short-term limited legal services - such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics or pro se counseling programs, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation. Such programs are normally operated under circumstances in which it is not feasible for a lawyer to systematically screen for conflicts of interest as is generally required before undertaking a representation. See, e.g., Rules 1.7, 1.9, 1.10, and 1.18.

[2] [Washington revision] A lawyer who provides short-term limited legal services pursuant to this Rule must secure the client's informed consent to the limited scope of the representation. See Rule 1.2(c). If a short-term limited representation would not be reasonable under the circumstances, the lawyer may offer advice to the client but must also advise the client of the need for further assistance of a legal practitioner. Except as provided in this Rule, the Rules of Professional Conduct, including Rules 1.6 and 1.9(c), are applicable to the limited representation.

[Comment [2] amended effective April 14, 2015.]

[3] [Washington revision] Because a lawyer who is representing a client in the circumstances addressed by this Rule ordinarily is not able to check systematically for conflicts of interest, paragraph (a) requires compliance with Rules 1.7 or 1.9(a), or 1.18(c) only if the lawyer knows that the representation presents a conflict of interest for the lawyer, and with Rule 1.10 only if the lawyer knows that another lawyer in the lawyer's firm is disqualified by Rules 1.7 or 1.9(a) in the matter.

[4] Because the limited nature of the services significantly reduces the risk of conflicts of interest with other matters being handled by the lawyer's firm, paragraph (b) provides that Rule 1.10 is inapplicable to a representation governed by this Rule except as provided by paragraph (a)(2). Paragraph (a)(2) requires the participating lawyer to comply with Rule 1.10 when the lawyer knows that the lawyer's firm is disqualified by Rules 1.7 or 1.9(a). By virtue of paragraph (b), however, a lawyer's participation in a short-term limited legal services program will not preclude the lawyer's firm from undertaking or continuing the representation of a client with interests adverse to a client being represented under the program's auspices. Nor will the personal disqualification of a lawyer participating in the program be imputed to other lawyers participating in the program.

[5] If, after commencing a short-term limited representation in accordance with this Rule, a lawyer undertakes to represent the client in the matter on an ongoing basis, Rules 1.7, 1.9(a) and 1.10 become applicable.

Additional Washington Comments (6 - 78)

[6] Washington's version of this Rule differs from the Model Rule. The differences accommodate the unique civil legal services delivery system, which uses a statewide centralized telephone intake and referral system for low-income persons to access free civil legal services. The Rule recognizes that lawyers who provide intake and referral services such as these will necessarily at times receive confidential information from adverse parties.

The risk that such information will be used against the material interests of either party is relatively low in comparison to the need for services, and when such a risk exists, protections of lawyer screening and notice to the client are required by the Rule.

[7] Paragraph (a)(3) was taken from former Washington RPC 6.5(a)(3) as enacted in 2002. The replacement of "confidences and secrets" in paragraph (a)(3) with "information relating to the representation" was necessary to conform the language of the Rule to a terminology change in Rule 1.6. No substantive change is intended. See Comment [21] to Rule 1.6.

[8] Providing prospective notice of a potential conflict in accordance with Paragraphs (a)(3)(ii) and (c) would be particularly appropriate in situations where vulnerable client populations may be involved. For example, where a nonprofit or court-annexed limited legal service program is assisting a survivor of domestic violence and the perpetrator of the domestic violence seeks, or previously received, assistance through the same program. In such cases, notification to the perpetrator when the conflict arises could effectively advise the perpetrator that the survivor is contemplating legal action potentially affecting the perpetrator, thus putting the survivor at risk of retaliation.

[Comments adopted effective September 1, 2006; amended effective April 14, 2015; September 1, 2016.]

WSR 21-04-092
RULES OF COURT
STATE SUPREME COURT
[January 8, 2021]

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the [21-06](#) issue of the Register.

WSR 21-04-093
RULES OF COURT
STATE SUPREME COURT
[January 8, 2021]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1334
LIMITED LICENSE LEGAL)
TECHNICIAN RULES OF)
PROFESSIONAL CONDUCT (LLLT)
RPC) 1.0B—ADDITIONAL)
TERMINOLOGY; LLLT RPC 1.5—)
FEES; LLLT RPC 7.1—)
COMMUNICATION CONCERNING)
AN LLLT'S SERVICES; LLLT RPC 7.2)
—ADVERTISING RESERVED; LLLT)
RPC 7.3—DIRECT CONTACT WITH)
PROSPECTIVE CLIENTS)
SOLICITATION OF CLIENTS; LLLT)
RPC 7.4—COMMUNICATION OF)
FIELDS OF PRACTICE AND)
SPECIALIZATION RESERVED; LLLT)
RPC 7.5—FIRM NAME AND)
LETTERHEADS RESERVED)

The Limited License Legal Technician Board, having recommended the expeditious adoption of the suggested amendments to Limited License Legal Technician Rules of Professional Conduct (LLLT RPC) 1.0B—Additional Terminology; LLLT RPC 1.5—Fees; LLLT RPC 7.1—Communication Concerning an LLLT's Services; LLLT RPC 7.2—Advertising Reserved; LLLT RPC 7.3—Direct Contact With Prospective Clients Solicitation of Clients; LLLT RPC 7.4—Communication of Fields of Practice and Specialization Reserved; LLLT RPC 7.5—Firm Name and Letterheads Reserved, and the Court having considered the suggested amendments, and having determined that the suggested amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the suggested amendments as shown below are adopted.

(b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 8th day of January, 2021.

Stephens, C.J.
Johnson, J. Gordon McCloud, J.
Madsen, J. Yu, J.
Owens, J. Montoya-Lewis, J.
Gonzalez, J. Whitener, J.

LLLT RPC 1.0B

TITLE

Limited License Legal Technician Rules of Professional Conduct

RULE 1.0B. ADDITIONAL TERMINOLOGY

(a) - (h) Unchanged.

Comment

[1] - [2] Unchanged.

[3] The terms "firm" and "law firm" are used interchangeably in the Lawyer RPC and also in these Rules. An LLLT should be cautious,

however, in using the words "law firm" to describe a law practice that includes only LLLTs. The name and description of an LLLT's practice should not imply that a lawyer is associated with the firm unless that is the case. ~~Rule 7.5(a) requires that any firm name used for an LLLT practice that does not include a lawyer include the words "Legal Technician."~~ Any firm name used for an LLLT practice that does not include a lawyer must include the words "Legal Technician." See LLLT RPC cmt. 2.

LLLT RPC 1.5

TITLE

Limited License Legal Technician Rules of Professional Conduct

RULE 1.5. FEES

(a) - (f) Unchanged.

Comment

[1] - [2] Unchanged.

[3] Under the circumstances specified in Lawyer RPC 1.5(e), a lawyer may agree to a division of a fee either with another lawyer who is not in the same firm or with an authorized lawyer referral service. By contrast, paragraph (e) of this Rule categorically prohibits an LLLT from dividing a fee. An LLLT may pay the usual charges of an LLLT referral service. See Rule 7.23(eb).

[4] - [5] [Unchanged.]

LLLT RPC 7.1, 7.2, 7.3, 7.4, 7.5

TITLE

Limited License Legal Technician Rules of Professional Conduct

RULE 7.1. COMMUNICATION CONCERNING AN LLLT'S SERVICES

(a) An LLLT shall not make a false or misleading communication about the LLLT or the LLLT's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

(b) In all communications about the LLLT or the LLLT's services, an LLLT shall communicate the fact that the LLLT has a limited license to practice in the particular fields of law for which the LLLT is licensed, and shall not state or imply that an LLLT is licensed to practice in any other areas of law, or has an unlimited license to practice law in any area of law.

Comment

[1] ~~This Rule Subsection (a) was adapted from~~ is based on Lawyer RPC 7.1 with no substantive changes and the comments to Lawyer RPC 7.1 applies to LLLTs analogously. See also APR 28 (H) (1) (prohibiting an LLLT from making any statement that the LLLT can or will obtain special favors from or has special influence with any court or governmental agency).

[2] If there are no lawyers in the firm, any firm name used by an LLLT in private practice shall include the words "Legal Technician."

RULE 7.2 Advertising [RESERVED.]

~~(a) Subject to the requirements of Rules 7.1 and 7.3, an LLLT may advertise services through written, recorded, or electronic communication, including public media.~~

~~(b) An LLLT shall not give anything of value to a person for recommending the LLLT's services, except that an LLLT may~~

~~(1) pay the reasonable cost of advertisements or communications permitted by this Rule;~~

- ~~(2) pay the usual charges of a legal service plan or a not-for-profit LLLT referral service;~~
- ~~(3) pay for a law practice in accordance with Rule 1.17; and~~
- ~~(4) refer clients to a lawyer or to another LLLT pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the LLLT, if~~
- ~~(i) the reciprocal referral agreement is not exclusive, and~~
- ~~(ii) the client is informed of the existence and nature of the agreement.~~
- ~~(c) Any communication made pursuant to this Rule shall include the name and office address of at least one LLLT or law firm responsible for its content.~~

Comment

[1] This Rule was adapted from Lawyer RPC 7.2 with no substantive changes except to reflect that client referrals may occur reciprocally between lawyers and LLLTs. It applies to LLLTs analogously.

[2] This Rule prohibits LLLTs from paying others for referrals. See also Rule 1.5(e) (prohibiting the division of fees with another LLLT or lawyer who is not in the same firm as the LLLT); Rule 5.4 (subject to Rule 5.9, prohibiting the sharing of fees with anyone who is not an LLLT).

[3] In advertising, an LLLT also has an affirmative obligation to communicate the fact that the LLLT has a limited license to practice in the particular fields of law for which the LLLT is licensed and is prohibited from stating or implying that the LLLT is licensed to practice in any other areas of law, or has an unlimited license to practice law in any area of law. See Rule 7.4(a).

RULE 7.3. DIRECT CONTACT WITH PROSPECTIVE CLIENTS SOLICITATION OF CLIENTS

~~(a) An LLLT shall not directly or through a third person, by in-person, live telephone, or real-time electronic contact may solicit professional employment from a prospective client when a significant motive for the LLLT's doing so is the LLLT's pecuniary gain, unless the person contacted:~~

- ~~(1) is a lawyer or an LLLT the solicitation is false or misleading;~~
- ~~(2) has a family, close personal, or prior professional relationship with the LLLT; or the LLLT knows or reasonably should know that the physical, emotional, or mental state of the subject of the solicitation is such that the person could not exercise reasonable judgment in employing an LLLT;~~
- ~~(3) has consented to the contact by requesting a referral from a not-for-profit LLLT referral service. the subject of the solicitation has made known to the LLLT a desire not to be solicited by the LLLT;~~
~~or~~
- ~~(4) the solicitation involves coercion, duress, or harassment.~~

~~(b) An LLLT shall not solicit professional employment from a prospective client by written, recorded, or electronic communication or by in-person, telephone, or real-time electronic contact even when not otherwise prohibited by paragraph (a), if; compensate, or give or promise anything of value to, a person who is not an employee or LLLT in the same firm for the purpose of recommending or securing the services of the LLLT or law firm, except that an LLLT may:~~

- ~~(1) the prospective client has made known to the LLLT a desire not to be solicited by the LLLT; or pay the reasonable cost of advertisements or communications permitted by LLLT RPC 7.1, including on-line group advertising;~~

~~(2) the solicitation involves coercion, duress or harassment. pay the usual charges of a legal service plan or a not-for-profit LLLT referral service;~~

~~(3) pay for a law practice in accordance with LLLT RPC 1.17;~~

~~(4) refer clients to a lawyer or to another LLLT or other nonlawyer professional pursuant to an agreement not otherwise prohibited under these rules that provides for the other person to refer clients or customers to the LLLT, if:~~

~~(i) the reciprocal referral agreement is not exclusive, and~~

~~(ii) the client is informed of the existence and nature of the agreement;~~

~~(5) give nominal gifts that are neither intended nor reasonably expected to be a form of compensation for recommending an LLLT's services.~~

~~(c) [Reserved.]~~

~~(d) Notwithstanding the prohibitions in paragraph (a), an LLLT may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the LLLT that uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan. [Reserved.]~~

Comment

[1] This Rule was adapted from is based on Lawyer RPC 7.3 with no substantive changes except to reflect that LLLTs may solicit employment from lawyers as well as other LLLTs, and that referral services may refer to both lawyers and LLLTs. This Rule The comments to Lawyer RPC 7.3 applies to LLLTs analogously.

[2] This Rule prohibits LLLTs from paying others for referrals. See also Rule 1.5(e) (prohibiting the division of fees with another LLLT or lawyer who is not in the same firm as the LLLT); Rule 5.4 (subject to Rule 5.9, prohibiting the sharing of fees with anyone who is not an LLLT).

RULE 7.4 COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION [RESERVED.]

~~(a) In all advertising, an LLLT shall communicate the fact that the LLLT has a limited license practice in the particular fields of law for which the LLLT is licensed, and shall not state or imply that an LLLT is licensed to practice in any other areas of law, or has an unlimited license to practice law in any area of law.~~

~~(b) [Reserved.]~~

~~(c) [Reserved.]~~

~~(d) An LLLT shall not state or imply that an LLLT is "certified," a "specialist," or an "expert," or use any other similar term to describe his or her qualifications as an LLLT, but may identify any award or recognition that the LLLT has received from a group, organization, or association. If an LLLT has received any other legal title, credential, or certificate from any group, organization, or association, then the LLLT may identify the legal title, credential, or certificate provided that the reference must:~~

~~(1) be truthful and verifiable and otherwise comply with Rule 7.1;~~

~~(2) identify the group, organization, or association that issued the legal title, credential, or certificate; and~~

~~(3) state that the Supreme Court of Washington does not recognize certification of specialties in the practice of law and that the legal title, credential, or certificate is not a requirement of the LLLT's~~

limited license to practice in the particular fields of law for which the LLLT is licensed.

Comment

[1] An LLLT's license to provide legal services is unique and may not be understood by persons who are not familiar with the limited scope of practice of an LLLT and with the differences between an LLLT and a lawyer. Advertising is designed to help educate the public on the availability of legal services, but advertising by an LLLT may not be false or misleading. See Rule 7.1. In order to avoid confusion about the scope of services that an LLLT can provide as distinct from the broader scope of services that a lawyer is authorized to provide, advertising by an LLLT must communicate that an LLLT may deliver legal services only within a limited scope. Accordingly, Rule 7.4(a) differs from Lawyer RPC 7.4(a) in that it requires that all advertising by an LLLT communicate relevant facts concerning the scope of the LLLT's license and expressly prohibits communications that state or imply that the LLLT's license exceeds that scope.

[2] Lawyer RPC 7.4(b) pertains to a patent practice before the United States Patent and Trademark Office, a practice that exceeds the authorized scope of APR 28. Accordingly, Rule 7.4(b) is reserved.

[3] Lawyer RPC 7.4(c) pertains to an admiralty practice, a practice that exceeds the authorized scope of APR 28. Accordingly, Rule 7.4(c) is reserved.

[4] In order to avoid confusion about the scope of services that an LLLT can provide, APR 28 (H) (4) prohibits an LLLT from representing or advertising, in connection with the provision of legal services, other legal titles or credentials that could cause a client to believe that the LLLT possesses professional legal skills beyond those authorized by the license held by the LLLT. The terms "certified," "specialist," "expert," and similar terms suggest achievement of skills beyond those that are authorized by the LLLT's license, and may not be used when describing an LLLT's credentials. Other titles and recognitions, however, may provide useful information that is not likely to mislead clients or potential clients concerning the skills and authorized scope of an LLLT's practice. Accordingly, if an LLLT has received a legal title, credential, or certificate from a group, organization, or association, the LLLT may identify that title, credential, or certificate so long as communications about it meet the requirements enumerated in Rule 7.4 (d) (1)-(3). Those requirements are substantially similar to Lawyer Rule 7.4 (d) (1)-(3). An LLLT may also identify awards and recognitions that the LLLT has received from a group, organization, or association.

RULE 7.5 FIRM NAMES AND LETTERHEADS [RESERVED.]

(a) An LLLT shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1. A trade name may be used by an LLLT in private practice if the trade name does not imply that lawyers are members or employees of the firm unless that is the case, and if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1. If there are no lawyers in the firm, any firm name used by an LLLT in private practice shall include the words "Legal Technician."

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers or LLLTs in an office of the firm

shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

~~(c) The name of an LLLT or lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the LLLT or lawyer is not actively and regularly practicing with the firm.~~

~~(d) LLLTs may state or imply that they practice in a partnership or other organization only when that is a fact.~~

Comment

~~[1] This Rule was adapted from Lawyer RPC 7.5 with no substantive changes except that provisions have been added to subpart (a) to require that any trade name not imply that lawyers are members or employees of the firm unless that is the case, and that, if there are no lawyers in the firm, any trade name include the words "Legal Technician." Otherwise, this Rule applies to LLLTs analogously.~~

~~[2] An LLLT's license to provide legal services is unique and may not be understood by persons who are not familiar with the limited scope of an LLLT's practice and with the differences between an LLLT and a lawyer. A trade name is a brand and is therefore similar to forms of advertising and is often used in advertising. A trade name must not be false or misleading. See Rules 7.1 and 7.4. In order to avoid confusion, trade names should communicate the nature of the legal services that a licensed practitioner or firm can deliver. Rule 7.5(a) requires that any trade name communicate relevant facts concerning the scope of the legal services that can be delivered by the legal professional or firm.~~

WSR 21-04-094
RULES OF COURT
STATE SUPREME COURT
[January 8, 2021]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENT TO APR) NO. 25700-A-1335
11—MANDATORY CONTINUING)
LEGAL EDUCATION)

The Mandatory Continuing Legal Education Board, having recommended the suggested amendment to APR 11—Mandatory Continuing Legal Education, and the Court having approved the suggested amendment for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendment as shown below is to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 8th day of January, 2021.

For the Court

Stephens, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendments

ADMISSION AND PRACTICE RULE (APR) 11

Mandatory Continuing Legal Education

Submitted by the Mandatory Continuing Legal Education Board

A. Name of Proponent:

Mandatory Continuing Legal Education (MCLE) Board
Staff Liaison/Contact:
Adelaine Shay, MCLE Manager
Washington State Bar Association (WSBA)
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8249)

B. Spokesperson:

Ayanna Colman
Chair of MCLE Board
PO Box 9046
Olympia, WA 98507 (Phone: 360-688-8689)

C. Purpose:

This suggested amendment is to ensure that licensed legal professionals in Washington State are adequately educated in order to pro-

tect the public and improve each licensed legal professional's ability to render competent and effective legal services to clients.

This suggested amendment will enable licensed legal professionals to better serve their clients by requiring that one of the required ethics credits be in the category of equity, inclusion and the mitigation of bias. The MCLE Board has identified this category as necessary to the practice of law that all lawyers, LLLTs, and LPOs should be required to be educated in this area in order to protect the public and work with clients in an ethical manner. The suggested amendment has been discussed and reviewed at length by the MCLE Board and is designed to enhance the existing ethics requirements of legal practitioners in Washington State.

Background

Pursuant to Washington Supreme Court Admission and Practice Rule (APR) 11 (d) (2) (i), Rules and Regulations, "The MCLE Board shall review and suggest amendments or make regulations to APR 11 as necessary to fulfill the purpose of MCLE ... Suggested amendments are subject to review by the Board of Governors and approval by the Supreme Court." The purpose of MCLE is "to enhance lawyers', LLLTs', and LPOs' legal services to their clients and protect the public by assisting lawyers, LLLTs, and LPOs in maintaining and developing their competence ..." (APR 11(a)). Therefore, the MCLE Board is continuing its work to address systemic inequities, by suggesting a single, narrow amendment of the APR 11 ethics and professional responsibility requirement focused on equity, inclusion, and mitigation of bias. The need for this requirement is highlighted by increased demand for the legal profession to refresh its commitment to address systemic inequities, as recently noted by statements made by the WSBA President and the Washington Supreme Court.¹ The MCLE Board believes that this suggested amendment is a valuable step toward realizing the necessary change called for by our profession's leaders.

¹ The June 3rd, 2020 statement from the WSBA President may be viewed here: https://www.wsba.org/docs/default-source/about-wsba/governance/civil-unrest.pdf?sfvrsn=1b7809f1_6; the June 4th 2020 open letter from the Washington Supreme Court may be viewed here: <http://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/Judiciary%20Legal%20Community%20SIGNED%20060420.pdf>

The MCLE Board previously submitted a suggested amendment of the ethics requirement to the Washington Supreme Court in 2019 that would have required additional ethics credits in three specific topics. The Supreme Court rejected that suggested amendment. This year, the MCLE Board began seeking a narrower amendment to the ethics requirement, addressing one topic and specifying one credit of the existing ethics requirement. The MCLE Board created an MCLE Board Rules Subcommittee, tasked with drafting a suggested amendment focused solely on the topic of diversity. This suggested amendment more closely aligns with the original proposal heard by the MCLE Board in October 2018, as presented by the WSBA Diversity Committee and Washington Women Lawyers, with the support of eight minority bar associations: the Asian Bar Association of Washington, the Cardozo Society of Washington State, Filipino Lawyers of Washington, the Pierce County Minority Bar Association, the Loren Miller Bar Association, the Latina/o Bar Association of Washington, the South Asian Bar Association of Washington, and QLaw. That proposal was to require that at least one of the six ethics credits licensed legal professionals are required to earn each reporting period be on the topic of "equity, inclusion and the mitigation of bias in the legal profession."

Based on an initial draft from the subcommittee, the MCLE Board sought feedback from the WSBA Diversity Committee, the Washington Women Lawyers and other stakeholders including Court-appointed boards,

WSBA committees, local and minority bar associations, and CLE sponsors. Based on stakeholder feedback, the MCLE Board again refined the suggested amendment, and posted it for public comment.

As of October 5, 2020, the MCLE Board have received 937 written comments, and four in-person comments during a public comment session held at the MCLE Board meeting on August 7, 2020. Out of the written comments, respondents were near equally split as 'in favor' and 'not in favor', with a slight lean towards 'in favor' of the suggested amendment. Of these 937 comments, 45 identified as members of the public (non-WSBA members); 41 of the 45 responded as 'in favor'. Last year, the compiled feedback for the previous suggested amendment resulted in a large majority opposed. See the attached compiled feedback regarding the current suggested amendment.

The MCLE Board reviewed and considered all written and oral feedback at its August 7, 2020 meeting. After discussing the feedback and hearing public comment, the MCLE Board voted unanimously to continue to move forward with the suggested amendment by sending it to the Board of Governors for review.

On September 18, 2020, MCLE Board member Asia Wright presented the suggested amendment to the WSBA Board of Governors for review. The Board of Governors voted to support the MCLE Board's suggested amendment.² Subsequently, at a special meeting held on September 22, 2020, the MCLE Board voted unanimously to suggest the amendment to the Court.

² WSBA Board of Governors Meeting on September 2020. Video of Review and Comments Re Mandatory Continuing Legal Education (MCLE Board) Suggested Amendment to APR 11 Ethics Requirement: <http://link.videoplatform.limelight.com/media/?channelListId=34d9718a114a453fa4067f9dad13df94&width=960&height=360&playerForm=WidescreenTabbedPlayer>

Suggested Amendment

The role of the MCLE Board is to suggest amendments to APR 11 that support the purpose of mandatory continuing legal education. The MCLE Board believes that the suggested amendment will not only educate Washington licensed legal professionals on the state of the law on various subjects, but also improve inter-cultural communication, improve equitable outcomes, and reduce the risk of potential liability. Further, the MCLE Board has a duty to ensure that Washington licensed legal professionals have the skills and knowledge base to effectively serve their clients, the legal system, and society as a whole. For these reasons, the MCLE Board recommends adopting the suggested amendment.

Many opponents of the suggested amendment are not in favor of mandatory requirements; however, the practice of law is not a right, but a privilege. It is a natural tendency to choose CLEs that seem directly relevant to one's practice or that sound interesting. However, a person who lacks understanding of a topic covered by the suggested amendment might be more likely to discount the value of the topic, and therefore not choose to participate in a given CLE. Accordingly, if this suggested ethics topic is not mandatory, the licensed legal professionals who might benefit most from the training may not receive it.

The suggested requirement is neither burdensome nor onerous. There are currently hundreds of both live and recorded CLE courses from around the world that cover equity, inclusion, and the mitigation of bias; nearly 200 such courses have been approved for credit in Washington in the past year alone. With the recent commitment by the WSBA Board of Governors, free ethics CLEs on the topic of equity, inclusion and the mitigation of bias in the legal profession will be

made accessible both in-person and on-demand.³ This eliminates any barriers to accessing the CLE, as this topic will be provided at no cost and offered in multiple formats. On September 15, 2020, the WSBA offered a free CLE, titled "Beyond the Dialogue: From Transphobia to Gender Inclusion in the Practice of Law". This CLE covered equity, inclusion and the mitigation of bias, and was attended by 1,031 licensed legal professionals.

³ On September 27, 2019, the WSBA Board of Governors passed a motion (7-5 vote) directing WSBA CLE to offer free CLEs one credit in each of the following subjects each year: 1) equity, inclusion and the mitigation of bias, 2) mental health, addiction, and stress, and 3) technology education focusing on digital security. The CLEs will be offered in-person and on-demand for free. The Board of Governors confirmed their commitment to offer the equity, inclusion, and mitigation of bias training for free at their September 2020 meeting. The first of the free WSBA CLEs, titled "Ethics Booster", took place on July 21, 2020. This CLE covered the topics of mental health, addiction and stress, and digital security. It was attended by 2,379 licensed legal professionals.

Throughout the amendment process, the MCLE Board was guided by APR 11, which states that the purpose of MCLE is "to enhance lawyers', LLLTs', and LPOs' legal services to their clients and protect the public by assisting lawyers, LLLTs, and LPOs in maintaining and developing their competence as defined in RPC 1.1 or equivalent rule for LLLTs and LPOs, fitness to practice as defined in APR 20, and character as defined in APR 20."

APR 20:

(c) Good Moral Character.

Good moral character is a record of conduct manifesting the qualities of honesty, fairness, candor trustworthiness, observance of fiduciary responsibilities, adherence to the law, and a respect for the rights of other persons and the judicial process.

(d) Fitness to Practice Law.

Fitness to practice law is a record of conduct that establishes that the applicant meets the essential eligibility requirements for the practice of law.

The following describes each suggested amendment and the amendment's purpose and intended effect:

APR 11 (c) (1) (ii)

APR 11 (c) (1) (ii) states "at least six credits must be in ethics and professional responsibility, as defined in subsection (f) (2)." The Board suggests an amendment that adds "with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law." The amendment would require one credit per three-year reporting period in the subject of equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.

This amendment would simply require that one credit of the required six ethics hours be devoted to the subject identified in the suggested amendment. The ethics requirements are a required minimum, and any credits earned above the required minimum of six ethics credits and fifteen law and legal credits can be counted towards the overall 45 credit requirement regardless of the credit category.

The MCLE Board notes that the subject - diversity, equity and inclusion, and implicit/explicit bias⁴ - is a core area in which modern licensed legal professionals must be fluent in order to provide legal services and representation. Furthermore, the bar has an important role to play in addressing systemic inequities in our society.

⁴ The MCLE Board references the glossary (provided by the WSBA Equity and Justice team) in Just Lead Washington's REJI Equity Organizational Toolkit: 'Diversity', 'Equity', 'Inclusion' and 'Bias'. The glossary is found on pages 107-113 of the toolkit, and may be accessed here: <https://justleadwa.org/wp-content/uploads/2019/08/REJI-Organizational-Toolkit-Full-1.pdf>

APR 11 (f) (2)

The Board's suggested amendment to APR 11 (f) (2) (i) strikes a phrase "including diversity and anti-bias with respect to the practice

of law or the legal system, and;" this phrase would be reworded to "equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law." This wording replaces the wording "diversity" with "equity, inclusion, and mitigation of implicit and explicit bias" at the suggestion of the Washington Attorneys with Disabilities Association. This wording suggestion was originally made when soliciting stakeholder feedback for the previous rejected suggested amendment in 2019, which held similar language and included the term "diversity". The suggestion was supported by the Korean American Bar Association and the South Asian Bar Association of Washington. Similarly, the Middle Eastern Legal Association of Washington and the Loren Miller Bar Association advised changing the language to incorporate "unconscious bias". The MCLE Board believes the intent of that language is captured by adding "implicit" and "explicit" to the proposed amendment.

Objective data demonstrates that the population of Washington State is rapidly becoming more racially diverse.⁵ Increasing the cultural competencies of our legal professionals will equip each of its members to better serve the public today and in the future.

⁵ Projections of the state population by age, sex, race and Hispanic origin: <https://ofm.wa.gov/washington-data-research/population-demographics/population-forecasts-and-projections/projections-state-population-age-sex-race-and-hispanic-origin>

Given the diversity of our community, it is important to understand the different lived experiences of others. Certain assumptions, attitudes, words, phrases and behaviors can harm others, negatively impact their mental and social well-being, and deny them their due economic wellness. Words can be confusing and change interactions if misused; they can also help persuade a judge or jury, sway negotiations, and determine how we meet our clients' needs. An individual's tone of voice, and non-verbal cues also impact how we interact with others. By understanding and identifying biases and interrupting their adverse impacts on others, the Washington licensed legal professionals can better understand their clients' needs and other points of view. It is a business imperative to understand bias. Being aware of our own bias and being sensitive to different perspectives can establish communication bridges. Through this communication, a licensed legal professional can become a credible source, build client relationships, and gain others' trust or convince another to see the other side of an argument.

No one is without some sort of bias. Recognizing our own biases, whether they be positive or negative, implicit or explicit, is a continual process. Opponents' claims that such courses would shame or target a particular group are erroneous. The equity requirement is not about shaming a particular group; any attempts to shame are counterproductive and a detour from achieving equitable outcomes. It is about understanding how one's bias can have adverse impact on the equitable practice of law.

Additionally, knowing that a significant segment of our colleagues and clients face unfair treatment in the legal community, including by legal professionals, requires purposeful action. Both racial discrimination and gender bias remain prevalent issues in the legal community. According to the National Association for Law Placement's 2018 Diversity Report, women make up nearly 42% of the profession, but only about 23% are represented at the level of partner. A similar disparity is evident with racial minorities, which comprise nearly 17% of the profession, but only 9% are represented at partner level⁶. Mandatory training in this area is both proper and necessary.

⁶ Nat'l Ass'n for Law Placement, 2018 Report on Diversity in U.S. Law Firms 9 (Jan. 2019) https://www.nalp.org/uploads/2018NALPReportonDiversityinUSLawFirms_FINAL.pdf the

The original report and recommendation of the WSBA Diversity Committee and Washington Women Lawyers (with the support of multiple minority bar associations) demonstrates the need for education within the profession across all categories of Washington licensed legal professionals (private practitioners, government lawyers, professors and instructors, judges, regulators, in house counsel, LLLTs, LPOs etc.), to raise the awareness and sensitivity of Washington lawyers to diversity issues, and particularly with respect to equity, inclusion, and both implicit and explicit biases.⁷ Our role as licensed legal professionals should be to work to eliminate our own biases, and to have a positive effect on both the profession and Washington generally. Intuitively, this is an idea whose time has more than come.

⁷ State of Science "Implicit Bias Review" from The Ohio State University Kirwan Institute for Study of Race and Ethnicity: <http://kirwaninstitute.osu.edu/wp-content/uploads/2017/11/2017-SOTS-final-draft-02.pdf>

Promoting equity and inclusion drives better business outcomes. Having individuals that think differently, by virtue of their distinct backgrounds and experiences, encourages creative thinking and innovation. This is particularly important amongst decision-makers. Conversely, failing to included diverse perspectives can result in a failure to take useful risks and ultimately lead to stagnation. The business sector as a whole has recognized this reality, with many major employers in this state and elsewhere investing in diversity even when not required by law. The legal profession needs to catch up in this regard.

Addressing issues of equity and inclusion is not political move, but a practical one. It is an undeniable fact that certain communities - such as people of color, those with disabilities, and those with non-majority religions, to name just a few - do not have and have not had the same opportunities as others who have not been marginalized.

Members of the MCLE Board talked to citizens of Washington State, who are not licensed to practice law, about this proposal. Board members heard consistently that this proposal is necessary to ensure appropriate treatment and consideration of the various issues and concerns the general public faces, no matter who is in office, or running local, state, and national government.

Promoting equity and inclusion is appropriate for the Bar. The regulatory objectives outlined in General Rule 12.1 specifically address the topic of diversity and inclusion.

◦ **GR 12.1:**

Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court's objectives include:

...

(j) diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

In addition, the authorized activities of the Washington State Bar Association found in General Rule 12.2 (a) (6) further emphasize this objective:

◦ **GR 12.2(a):**

(a) **Purposes: In General.** In general, the Washington State Bar Association strives to:

(6) Promote diversity and equality in the courts and the legal profession.

It is therefore both appropriate and beneficial for the Washington Supreme Court to mandate training to help licensed legal professionals gain awareness and understanding of these issues. While it is true that training does not guarantee equitable and inclusive outcomes, training does result in an increased understanding of various topics, especially in a legal context where rules and regulations change constantly. For example, discussion around visible and invisible disabilities allows us, as legal professionals, to better identify legal concerns facing these communities. If we fail to take action while the rest of society engages in this conversation, we risk providing inadequate counsel to our clients as well as the community at large. Given our position in society as rule makers and legal deciders, we cannot afford to sit back and react only when a lawsuit or other grievance takes place.

Conclusion

Washington has an opportunity to take the lead by adopting a requirement that training in all the category of equity, inclusion, and the elimination of bias become mandatory. Education in equity and inclusion is already required in multiple states (eight in total), with more states following their lead. To recognize the importance in this category of continuing legal education and to require it is to identify Washington as a leader in its approach to MCLE.

The MCLE Board recommends that this suggested amendment become effective on September 1, 2022, and that the first group of licensed legal professionals who will be required to report this one ethics credit on this subject be those who are in the 2023-2025 MCLE reporting period. This will allow time for WSBA staff to develop tracking mechanisms in the MCLE database and to notify both licensed legal professionals and CLE sponsors of the new requirement. In addition, an effective date of September prior to the start of the 2023-2025 reporting period allows the Bar's MCLE staff to accredit courses taking place in 2023 according to the new requirements.

D. Hearing: Because of the outreach conducted and input previously received by the MCLE Board, a hearing is not requested.

E. Expedited Consideration: Expedited consideration is not requested.

F. Supporting Material: In addition to the submission of the suggested amendment to APR 11, attached is a letter of support from the WSBA Board of Governors, and the collected public comments on the suggested amendment. The initial MCLE Board report and recommendation may be viewed online.⁸

⁸ The MCLE Board report and recommendation may be viewed here: https://www.wsba.org/docs/default-source/legal-community/committees/mcle-board/mcle-board-report-and-recommendation.pdf?sfvrsn=52e008f1_4

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

SUGGESTED AMENDMENTS TO APR 11 (Redline)

TITLE

ADMISSION AND PRACTICE RULES (APR)

RULE 11. MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

Sections (a) - (b) No Changes.

(c) Education Requirements.

(1) *Minimum Requirement.* Each lawyer must complete 45 credits and each LLLT and LPO must complete 30 credits of approved continuing legal education by December 31 of the last year of the reporting period with the following requirements:

(i) at least 15 credits must be from attending approved courses in the subject of law and legal procedure, as defined in subsection (f) (1); and

(ii) at least six credits must be in ethics and professional responsibility, as defined in subsection (f) (2) ~~-, with at least one credit in equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law.~~

Sections (c) (2) - (e) No Changes.

(f) Approved Course Subjects. Only the following subjects for courses will be approved:

(1) *Law and legal procedure*, defined as legal education relating to substantive law, legal procedure, process, research, writing, analysis, or related skills and technology;

(2) *Ethics and professional responsibility*, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers, LLLTs, LPOs, and judges, including ~~diversity and antibias with respect to the practice of law or the legal system,~~ equity, inclusion, and the mitigation of both implicit and explicit bias in the legal profession and the practice of law, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;

Sections (f) (3) - (k) No Changes.

SUGGESTED AMENDMENTS TO APR 11 **(Redline)**

Sections (f) (3) - (k).

No Changes.

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

WSR 21-04-095
RULES OF COURT
STATE SUPREME COURT
[January 8, 2021]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1336
APR 4—EXAMINATIONS FOR)
ADMISSION; NOTIFICATION OF)
RESULTS; APR 5—)
RECOMMENDATION FOR)
ADMISSION; ORDER ADMITTING)
TO PRACTICE; PAYMENT OF)
MEMBERSHIP FEE; OATH OF)
ATTORNEY; RESIDENT AGENT; APR)
25.1—RESTRICTIONS ON)
REINSTATEMENT; APR 25.2—)
REVERSAL OF CONVICTION; APR)
25.3—ACTION ON SUPREME)
COURT DETERMINATION; APR 28)
APPENDIX APR 28—REGULATIONS)
OF THE APR 28 LIMITED LICENSE)
LEGAL TECHNICIAN BOARD)

The Washington State Supreme Court, having recommended the adoption of the proposed amendments to APR 4—Examinations for Admission; Notification of Results; APR 5—Recommendation for Admission; Order Admitting to Practice; Payment of Membership Fee; Oath of Attorney; Resident Agent; APR 25.1—Restrictions on Reinstatement; APR 25.2—Reversal of Conviction; APR 25.3—Action on Supreme Court Determination; APR 28 Appendix APR 28—Regulations of the APR 28 Limited License Legal Technician Board, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 8th day of January, 2021.

For the Court

Stephens, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendments to
ADMISSION TO PRACTICE RULES (APRs)

APR 4, APR 5, APR 25.1, APR 25.2, APR 25.3, APR 28 Appendix 28

A. Name of Proponent: Washington State Supreme Court

B. Spokesperson: Justice Charles W. Johnson, Supreme Court Rules Committee Chair on behalf of the court.

C. Purpose: The Washington State Supreme Court voted by majority on July 8, 2020, to sunset the Limited License Legal Technician (LLLT) program. Specifically, the court authorized: (1) an immediate reduction in the experience hours required of LLLT candidates from 3,000 hours to 1,500 hours; (2) allowance of LLLT candidates until July 31, 2022 to complete the experience hours requirement as long as the candidates have completed all other licensure requirements. The suggested amendments implement the majority vote of the court.

D. Suggested Amendments:

APR 4—Clarifies the LLLT applicant's ability to repeat examinations until the final LLLT examination.

APR 5—Replaces the expiration of preadmission requirements to the July 31, 2022 end date.

APR 25.1—Restricts disbarred LLLTs from seeking reinstatement to practice.

APR 25.2—Restricts disbarred LLLTs who have their conviction reversed, when it was the LLLT's sole basis of disbarment, from being able to have direct application for reinstatement as a LLLT.

APR 25.3—APR 25.3—Removes LLLTs from the petition for reinstatement process after disbarment.

APR 28 Appendix 28 Regulation 3—Removes the requirement to complete the core courses prior to enrolling in the Domestic Relations practice area in accordance with Supreme Court Order 25700-A-1304 issued on August 6, 2020.

APR 28 Appendix 28 Regulation 4—Changes the definition of a "Limited Time Waiver" to remove the finite date, which exceeds the court's vote to end LLLT candidate licensure. Changes the expiration of the waiver approval to incorporate the July 31, 2022 end date.

APR 28 Appendix 28 Regulation 10—Removes the ability for existing LLLTs to add additional practice areas.

E. Hearing: A hearing is not requested.

F. Expedited Consideration: Expedited consideration is requested.

PROPOSED AMENDMENT TO

APR 4

EXAMINATIONS FOR ADMISSION; NOTIFICATION OF RESULTS

(a) - (b) [Unchanged.]

(c) **Repeating Examinations.** There is no limitation on the number of times an unsuccessful lawyer or LPO applicant may apply for and take subsequent administrations of an examination for admission. An LLLT applicant may repeat the examination for admission without limitation on the number of times until the final administration of the LLLT examination after which no examination will be administered.

(d) [Unchanged.]

(e) **LLLT Examination.** Unless otherwise stated in these rules, all applicants for admission to practice law in Washington as an LLLT must take and pass an LLLT practice area examination and the LLLT professional responsibility examination.

(1) The practice area examination will test applicants on one specific practice area and knowledge of LLLT scope of practice specific to that practice area.

(A) Each practice area examination shall be comprised of three parts: a multiple choice section, an essay section, and a performance section.

(B) The duration, form, and manner of the exam shall be as prescribed by the LLLT Board.

(C) The minimum passing standard for the practice area examination is a score of 75 percent for each section of the examination. A failing grade in one section shall result in failure of the examination, in which case grading of any remaining sections shall not be required.

(D) An applicant who fails the practice area examination may request a copy of their essay and performance sections if graded. An applicant who passes the practice area examination will not receive a copy of the examination.

(2) The LLLT professional responsibility examination will test applicants on their knowledge of the LLLT Rules of Professional Conduct.

(A) The professional responsibility examination shall be comprised of one multiple choice section.

(B) The minimum passing standard for the professional responsibility examination is a score of 75 percent.

(C) The professional responsibility examination must be passed no earlier than 18 months and no later than 40 months from the date of the administration of the practice area examination in which the applicant receives a passing score.

(f) [Unchanged.]

PROPOSED AMENDMENT TO
APR 5
PREADMISSION REQUIREMENTS; OATH; RECOMMENDATION FOR
ADMISSION; ORDER ADMITTING TO PRACTICE LAW

(a) - (b) [Unchanged.]

(c) LLLT Applicants. In addition to the requirements in subsection (a) above, LLLT applicants must:

(1) demonstrate financial responsibility pursuant to APR 28(I); and

(2) demonstrate completion of ~~3,000~~ 1,500 hours of substantive law-related work experience pursuant to APR 28 Regulation 9; and

(3) present proof of passing a LLLT Board approved paralegal examination.

(d) [Unchanged.]

(e) Expiration of Preadmission Requirements. The preadmission requirements must be completed within:

(1) within 40 months from the date of the administration of the examination for lawyer applicants;

(2) ~~40 months from the date of the administration of the examination by July 31, 2022,~~ for LLLT applicants;

(3) within 12 months from the date of the administration of the examination for LPO applicants;

(4) within 12 months from the date of filing the application for lawyer applicants who apply by motion or Uniform Bar Examination (UBE) score transfer, except for good cause shown.

(f) - (m) [Unchanged.]

PROPOSED AMENDMENT TO
APR 25.1
RESTRICTIONS ON REINSTATEMENT

(a) [Unchanged.]

(b) When Petition May Be Filed. No disbarred LLLT shall be permitted to seek reinstatement to practice as an LLLT. No petition for reinstatement by a disbarred lawyer or LPO shall be filed within a period of five years after disbarment or within a period of two years

after an adverse decision of the Supreme Court upon a former petition, or after an adverse recommendation of the Character and Fitness Board or the Disciplinary Board on a former petition when that recommendation is not submitted to the Supreme Court. If prior to disbarment the lawyer, ~~LLLT~~, or LPO was suspended from the practice of law pursuant to the provisions of Title 7 of the Rules for Enforcement of Lawyer Conduct, or any comparable rule, the period of such suspension shall be credited toward the five years referred to above.

(c) When Reinstatement May Occur. No disbarred lawyer, ~~LLLT~~, or LPO may be reinstated sooner than six years following disbarment. If prior to disbarment the lawyer, ~~LLLT~~, or LPO was suspended from the practice of law pursuant to the provisions of Title 7 of the Rules for Enforcement of Lawyer Conduct, or any comparable rule, the period of such suspension shall be credited toward the six years referred to above.

(d) Payment of Obligations. No disbarred lawyer, ~~LLLT~~, or LPO may file a petition for reinstatement until costs and expenses and restitution ordered by the Disciplinary Board or the Supreme Court have been paid and until amounts paid out of the Client Protection Fund for losses caused by the conduct of the Petitioner have been repaid to the client protection fund, or until periodic payment plans for costs and expenses, restitution and repayment to the client protection fund have been entered into by agreement between the Petitioner and disciplinary counsel. A Petitioner may seek review by the Chair of the Disciplinary Board of an adverse determination by disciplinary counsel regarding the reasonableness of any such proposed periodic payment plan. Such review will proceed as directed by the Chair of the Disciplinary Board and the decision of the Chair of the Disciplinary Board is final unless the Chair of the Disciplinary Board determines that the matter should be reviewed by the Disciplinary Board, in which case the Disciplinary Board review will proceed as directed by the Chair and the decision of the Board will be final.

PROPOSED AMENDMENT TO
APR 25.2
REVERSAL OF CONVICTION

If a lawyer, ~~LLLT~~, or LPO has been disbarred solely because of his or her conviction of a crime and the conviction is later reversed and the charges dismissed on their merits, the Supreme Court may in its discretion, upon direct application by the lawyer, ~~LLLT~~, or LPO enter an order reinstating the lawyer, ~~LLLT~~, or LPO upon such conditions as determined by the Supreme Court. At the time such direct application is filed with the court a copy shall be filed with the Bar. The Supreme Court may request a response to the application from the Bar.

PROPOSED AMENDMENT TO
APR 25.3
PETITIONS AND INVESTIGATIONS

(a) Form of Petition. A petition for reinstatement after disbarment shall be in writing and filed with the Bar. The petition shall set forth the residence and address of the Petitioner, the date of disbarment, and a concise statement of facts claimed to justify reinstatement. The petition shall be accompanied by the total fees required of a lawyer, ~~LLLT~~, or LPO Applicant for admission under these rules, and by a completed application for admission.

(b) - (e) [Unchanged.]

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

PROPOSED AMENDMENT TO
APR 28
LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS

A. - O. [Unchanged.]

APPENDIX APR 28.

REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL TECHNICIAN BOARD

REGULATION 1 - REGULATION 2. [Unchanged.]

REGULATION 3. EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND APPROVAL OF EDUCATIONAL PROGRAMS

An applicant for admission as an LLLT shall satisfy the following education requirements:

A. Core Curriculum.

1. *Credit Requirements.* An applicant for licensure shall have earned 45 credit hours as required by APR 3. The core curriculum must include the following required subject matters with minimum credit hours earned as indicated:

1. Civil Procedure, minimum 8 credit hours;
2. Contracts, minimum 3 credit hours;
3. Interviewing and Investigation Techniques, minimum 3 credit hours;
4. Introduction to Law and Legal Process, minimum 3 credit hours;
5. Law Office Procedures and Technology, minimum 3 credit hours;
6. Legal Research, Writing and Analysis, minimum 8 credit hours;

and

7. Professional Responsibility, minimum 3 credit hours.

The core curriculum courses in which credit for the foregoing subject matters is earned shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar. If the required courses completed by the applicant do not total 45 credit hours, then the applicant may earn the remaining credit hours by taking legal or paralegal elective courses. All core curriculum course credit hours must be earned at an ABA approved law school, an educational institution with an ABA approved paralegal program, or at an educational institution with an LLLT core curriculum program approved by the LLLT Board under the Washington State LLLT Educational Program Approval Standards.

For purposes of satisfying APR 3 (e) (2), one credit hour shall be equivalent to 450 minutes of instruction.

2. *LLLT Educational Program Approval Requirements for Programs Not Approved by the ABA.* The LLLT Board shall be responsible for establishing and maintaining standards, to be published by the Association, for approving LLLT educational programs that are not otherwise approved by the ABA. Educational programs complying with the LLLT Board's standards shall be approved by the LLLT Board and qualified to teach the LLLT core curriculum.

B. Practice Area Curriculum. An applicant for licensure in a defined practice area shall have completed the prescribed curriculum and earned course credits for that defined practice area, as set forth below and in APR 3(e). Each practice area curriculum course shall satisfy the curricular requirements approved by the LLLT Board and published by the Bar.

1. *Domestic Relations.*

a. ~~Prerequisites: Prior to enrolling in the domestic relations practice area courses, applicants shall complete the following core courses: Civil Procedure; Interviewing and Investigation Techniques;~~

~~Introduction to Law and Legal Process; Legal Research, Writing, and Analysis; and Professional Responsibility [RESERVED].~~

b. Credit Requirements: Applicants shall complete 5 credit hours in basic domestic relations subjects and 10 credit hours in advanced and Washington specific domestic relations subjects.

C. Required Supplemental Education. The LLLT Board has discretion to require all LLLTs to complete supplemental education in order to maintain their licenses due to changes in the permitted scope of practice for LLLTs. The LLLT Board shall provide notice to LLLTs of the supplemental education requirement and the deadline for completion of the requirement, allowing at least 12 months to complete the required supplemental education. LLLTs may be administratively suspended pursuant to the procedures set forth in APR 17 if they fail to comply with the supplemental education requirements by the stated deadline.

REGULATION 4. LIMITED TIME WAIVERS

A. Limited Time Waiver, Defined. ~~For the limited time between the date the Board begins to accept applications and December 31, 2023,~~ ~~the LLLT Board shall grant a waiver of the minimum associate-level degree requirement and/or the core curriculum education requirement set forth in APR 3 if an applicant meets the requirements set forth in Regulation 4(B). The LLLT Board shall not grant waivers for applications filed after December 31, 2023. The LLLT Board shall not waive the practice area curriculum requirement. The limited time waiver application will be separate from the application process for admission set forth in these regulations.~~

B. - D. [Unchanged.]

E. Expiration of Limited Time Waiver Approval. Approval of the limited time waiver application shall expire ~~December 31, 2025~~ July 31, 2022. After expiration of the approval, any subsequent application for licensure by the applicant shall meet all of the standard requirements for admission without waiver.

REGULATION 5. - REGULATION 8 [Unchanged.]

REGULATION 9. SUBSTANTIVE LAW-RELATED WORK EXPERIENCE REQUIREMENT

Each applicant for licensure as a limited license legal technician shall show proof of having completed ~~3,000~~ 1,500 hours of substantive law-related work experience supervised by a licensed lawyer as required by APR 5(c). The experience requirement shall be completed no more than three years before and 40 months after the date of the LLLT practice area examination that the applicant passed, and must be completed by July 31, 2022. The proof shall be provided in such form as the Bar requires, but shall include at a minimum:

1. the name and bar number of the supervising lawyer;
2. certification that the work experience meets the definition of substantive law-related work experience as defined in APR 28;
3. the total number of hours of substantive law-related work experience performed under the supervising lawyer; and
4. certification that the requisite work experience was acquired within the time period required by this regulation.

REGULATION 10. ADDITIONAL PRACTICE AREAS

A. Application for Additional Practice Area. ~~An LLLT seeking admission in an additional practice area must complete and file with the Bar:~~

- ~~1. a completed practice area application in a form and manner prescribed by the Bar;~~
- ~~2. evidence in a form and manner prescribed by the Bar demonstrating completion of the practice area curriculum required under Regulation 3(B); and~~

3. a signed and notarized Authorization, Release, and Affidavit of Applicant.

B. Additional Practice Area Prelicensure Requirements. An LLLT who is seeking licensure in an additional practice area shall:

1. take and pass the additional practice area examination;
2. pay the annual license fee as stated in the fee schedule; and
3. file any and all licensing forms required for active LLLTs.

The requirements above shall be completed within one year of the date the applicant is notified of the practice area examination results. If an LLLT fails to satisfy all the requirements for licensure in an additional practice area within this period, the LLLT shall not be eligible for licensure in the additional practice area without submitting a new application and retaking the practice area examination.

C. Order Admitting LLLT to Limited Practice in Additional Practice Area. After examining the recommendation and accompanying documents transmitted by the Bar, the Supreme Court may enter such order in each case as it deems advisable. For those LLLTs it deems qualified, the Supreme Court shall enter an order admitting them to limited practice in the additional practice area.

D. Voluntary Termination of Single Practice Area License. An LLLT licensed in two or more practice areas may request to voluntarily terminate a single practice area by notifying the Bar in writing. After terminating the practice area license, the LLLT shall not accept any new clients or engage in work as an LLLT in any matter in the terminated practice area. The Bar will notify the LLLT of the effective date of the termination. [Reserved.]

REGULATION 11. [Reserved.]

REGULATION 12. [Reserved.]

REGULATION 13. [Reserved.]

REGULATION 14. [Reserved.]

REGULATION 15. [Reserved.]

REGULATION 16. [Reserved.]

REGULATION 17. [Reserved.]

REGULATION 18. [Reserved.]

REGULATION 19. [Reserved.]

REGULATION 20. AMENDMENT AND BOARD POLICIES

These Regulations may be altered, amended, or repealed by vote of the LLLT Board on approval of the Supreme Court. The LLLT Board has ongoing authority to adopt policies for the administration of the LLLT program consistent with APR 28 and these Regulations.

WSR 21-04-097

PUBLIC RECORDS OFFICER

SHORELINE COMMUNITY COLLEGE

[Filed February 1, 2021, 8:32 a.m.]

Pursuant to RCW 42.56.580, the public records officer for Shoreline Community College is Tricia Lovely, 16101 Greenwood Avenue North, Shoreline, WA 98133, email publicrecords@shoreline.edu, fax 206-546-7857.

Cheryl Roberts, Ed.D.
President

WSR 21-04-106

AGENDA

ATTORNEY GENERAL'S OFFICE

[Filed February 1, 2021, 11:11 a.m.]

**Semi-Annual Rule-Making Agenda
January 1 through June 30, 2021**

This is the office of the attorney general's semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314. The office may have additional rule making as conditions warrant.

Should you have questions about this rule-making agenda, please contact Elaine Ganga, Rules Coordinator, P.O. Box 40100, Olympia, WA 98504-0100, 360-753-9672, elaine.ganga@atg.wa.gov. Additional contact information for particular rules is provided below.

WAC Citation	Subject Matter	Current Activity (In 2021)			Additional Contacts
		Preproposal (CR-101)	Proposed (CR-102) or Expedited (CR-105)	Permanent (CR-103)	
There is no rule making anticipated at this time.					

Elaine Ganga
Rules Coordinator

WSR 21-04-113

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed February 1, 2021, 1:22 p.m.]

Notice of Adoption of a Policy Statement

Title of Policy Statement: Continuing Education Requirements During the COVID-19 Response. Policy number BON 20-01.1.

Issuing Entity: Board of naturopathy.

Subject Matter: Addressing the impact COVID-19 response measures are having on the naturopathic physician profession with regard to meeting the continuing medical education requirements.

Effective Date: November 20, 2020.

Contact Person: Susan Gragg, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, 360-236-4941, naturopathy@doh.wa.gov.

WSR 21-04-114

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed February 1, 2021, 1:27 p.m.]

Notice of Adoption of a Policy Statement

Title of Policy Statement: Continuing Medical Education Requirements During the COVID-19 Response. Policy Statement PO 20-51.1.

Issuing Entity: Podiatric medical board.

Subject Matter: Addressing the impact COVID-19 response measures are having on the podiatric physician profession with regard to meeting the continuing medical education requirements.

Effective Date: November 5, 2020.

Contact Person: Susan Gragg, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, 360-236-4941, podiatric@doh.wa.gov.

WSR 21-04-117

NOTICE OF PUBLIC MEETINGS

WHATCOM COMMUNITY COLLEGE

[Filed February 1, 2021, 1:56 p.m.]

2021 Meeting Schedule of
The Board of Trustees

Second Wednesday of the Month

(per chapter 132U-104 WAC)

2:00 p.m. (unless otherwise noted with an *)

Whatcom Community College
Laidlaw Center Board Room (LDC 143)
237 West Kellogg Road
Bellingham, WA 98226

Wednesday
January 13

Wednesday
February 17*

Tuesday
March 2* Winter board retreat

Wednesday
March 17

Wednesday
April 21*

Wednesday
May 12

Wednesday
June 9

Thursday and Friday Board retreat
August 19-20*

Wednesday
October 13

Wednesday
November 10

Wednesday
December 8

WSR 21-04-118

INTERPRETIVE STATEMENT

DEPARTMENT OF HEALTH

[Filed February 1, 2021, 2:36 p.m.]

Notice of Adoption of an Interpretive Statement

Title of Interpretive Statement: Clarification of "emergency medical reason" and wholesaler license requirements. IS Number I001.1.

Issuing Entity: Pharmacy quality assurance commission.

Subject Matter: This statement clarifies the pharmacy quality assurance commission's rule that a pharmacy is not required to obtain a wholesaler license when transferring prescription drugs for "emergency medical reasons."

Effective Date: August 28, 2020.

Contact Person: Lindsay Trant, rules and legislative consultant, pharmacy quality assurance commission, Washington state department of health, 360-236-2932, PharmacyRules@doh.wa.gov.

WSR 21-04-119

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed February 1, 2021, 2:38 p.m.]

NOTICE OF ADOPTION OF A POLICY STATEMENT

Title of Policy Statement: Verification of Age by Applicant. Policy Number P006.

Issuing Entity: Pharmacy quality assurance commission.

Subject Matter: This policy clarifies that the pharmacy quality assurance commission authorizes the department of health to accept the signed applicant's attestation on the official application as proof that an applicant meets the regulatory age requirement of eighteen or older.

Effective Date: August 28, 2020.

Contact Person: Lindsay Trant, rules and legislative consultant, pharmacy quality assurance commission, Washington state department of health, 360-236-2932, PharmacyRules@doh.wa.gov.

WSR 21-04-120

POLICY STATEMENT

DEPARTMENT OF HEALTH

[Filed February 1, 2021, 2:48 p.m.]

NOTICE OF ADOPTION OF A POLICY STATEMENT

Title of Policy Statement: Accreditation of Colleges of Pharmacy.
Policy Number P007.

Issuing Entity: Pharmacy quality assurance commission

Subject Matter: This policy clarifies that the pharmacy quality assurance commission accredits schools and colleges of pharmacy accredited by the accreditation council for pharmacy education (ACPE) by meeting the 2016 ACPE standards.

Effective Date: May 29, 2020.

Contact Person: Lindsay Trant, rules and legislative consultant, pharmacy quality assurance commission, Washington state department of health, 360-236-2932, PharmacyRules@doh.wa.gov.

WSR 21-04-122
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed February 1, 2021, 3:20 p.m.]

Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

Economic Services Administration
Division of Child Support (DCS)

Document Title: Canary Notice 307: Pass-Through 2021.

Subject: Pass-Through 2021.

Effective Date: January 26, 2021.

Document Description: This canary notice explains the changes regarding the pass-through of qualified collections to custodial parents receiving temporary assistance for needy families.

To receive a copy of the interpretive or policy statements, contact Rachel Shaddox, DCS, P.O. Box 11520, Tacoma, WA 98411-5520, phone 360-664-5073, TDD/TTY 360-753-9122, fax 360-586-3274, email Rachel.Shaddox@dshs.wa.gov, website <http://www.dshs.wa.gov/dcs/>.

WSR 21-04-124

RULES COORDINATOR

DEPARTMENT OF CORRECTIONS

[Filed February 1, 2021, 6:23 p.m.]

Pursuant to RCW 34.05.312, beginning on February 1, 2021, the rules coordinator for the department of corrections is Vadim V. Chebotar, Senior Contracts Attorney, P.O. Box 41114, Olympia, WA 98504-1114, 253-261-1465, email Vadim.Chebotar@doc.wa.gov.

Debra J. Eisen
Contracts and
Regulations Administrator

WSR 21-04-127
NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
 [Filed February 2, 2021, 9:59 a.m.]

Following is the **revised** schedule of regular meetings for the Washington state health care authority health care cost transparency board meetings for 2021:

Date	Time	Location
February 18, 2021	2:00-4:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
March 15, 2021	2:00-4:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
April 13, 2021	10:00 [a.m.]-12:00 [p.m.]	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
May 13, 2021	9:00-11:00 a.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
June 16, 2021	2:00-4:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
July 19, 2021	2:00-4:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
August 17, 2021	2:00-4:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
September 14, 2021	2:00-4:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
October 14, 2021	10:00 [a.m.]-12:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
November 17, 2021	2:00-4:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501
December 15, 2021	2:00-4:00 p.m.	Health Care Authority Sue Crystal Conference Rooms A/B 626 8th Avenue S.E. Olympia, WA 98501

If you need further information or you are a person with a disability and need a special accommodation, please contact Tamarra Henshaw, P.O. Box 45502, Olympia, WA 98504-5502, 360-725-1419, tamarra.henshaw@hca.wa.gov.

WSR 21-04-130

NOTICE OF PUBLIC MEETINGS
WESTERN WASHINGTON UNIVERSITY
[Filed February 2, 2021, 11:00 a.m.]

**Associated Students (AS) Executive Board
Winter 2021 Meeting Schedule - Revision**

Pursuant to chapter 42.30 RCW, please publish the following 2021 revised winter quarter schedule of regular meetings of Western Washington University AS executive board:

The meeting time of Western Washington University AS executive board has been revised. Meetings will now begin at 12:30 p.m. and conclude at 2:30 p.m.

Public comment periods are scheduled for all meetings. Any questions regarding the meeting schedule or the public comment period may be directed to Annie Byers, AS executive board program coordinator, at 360-650-3460 or email Annie.Byers@wwu.edu.

For potential updates to the meeting date, time, or location, please refer to the following web link <https://as.wwu.edu/gov/board/>.

WSR 21-04-135

**NOTICE OF PUBLIC MEETINGS
WESTERN WASHINGTON UNIVERSITY**
[Filed February 2, 2021, 12:50 p.m.]

**Services and Activities Fees
Winter 2021 Meeting Schedule**

Pursuant to chapter 42.30 RCW, please publish the following winter 2021 schedule of regular meetings of Western Washington University's services and activities fees committee:

Services and activities fees committee meetings will be held every Friday, from 9:30 to 10:30 a.m., beginning February 5 through March 19, 2021.

Meetings will be held virtually, due to campus policy. To participate in the virtual meeting please contact Debbie Curry by email at Debbie.Curry@wwu.edu.

For potential updates to the meeting date, time, or location, please refer to the following web link <https://vpess.wwu.edu/services-and-activities-fee-meetings-and-documents>.

Please direct any questions regarding the meeting schedule or the public comment period to Kurt Willis, director, university residences, at 360-650-6105 or email Kurt.Willis@wwu.edu.

WSR 21-04-140

AGENDA

MILITARY DEPARTMENT

[Filed February 3, 2021, 8:14 a.m.]

**Semi-Annual Rule-Making Agenda
January 1 - July 1, 2021**

Following is the Washington military department's semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

If you have questions about the agenda, please contact Cynthia Whaley, Military Department Rules Coordinator, Building 1, Camp Murray, WA 98430, phone 253-512-8110, email cynthia.whaley@mil.wa.gov.

WAC Citation	Subject Matter	Agency Contact	Current Activity		
			CR-101	CR-102	CR-103
118-04	Updating the rules to the emergency worker program.	Chris Long 253-512-7024 chris.long@mil.wa.gov	To be determined	To be determined	To be determined
118-30	Updating the rules to the local emergency management/ services organizations, plans and programs.	Michael Roberson 253-512-7065 michael.roberson@mil.wa.gov	5/17/2013	To be determined	To be determined
118-40	Updating the rules to the hazardous chemical emergency response planning and community right-to-know reporting.	Stephen (Troy) Newman 253-512-7041 stephen.newman@mil.wa.gov	To be determined	To be determined	To be determined

WSR 21-04-143
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed February 3, 2021, 9:41 a.m.]

Notice of Interpretive or Policy Statement

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the department of social and health services.

Economic Services Administration
Division of Child Support (DCS)

Document Title: Canary Notice 308: Abatement of Child Support for Incarcerated Noncustodial Parents.

Subject: Abatement of child support for incarcerated noncustodial parents.

Effective Date: January 28, 2021.

Document Description: This canary notice explains procedures for abating child support for eligible incarcerated noncustodial parents.

To receive a copy of the interpretive or policy statements, contact Rachel Shaddox, DCS, P.O. Box 11520, Tacoma, WA 98411-5520, phone 360-664-5073, TDD/TTY 360-753-9122, fax 360-586-3274, email Rachel.Shaddox@dshs.wa.gov, website <http://www.dshs.wa.gov/dcs/>.

WSR 21-04-144

DEPARTMENT OF ECOLOGY

[Filed February 3, 2021, 10:14 a.m.]

Announcing the Reissuance of the Sand and Gravel General Permit

On February 17, 2021, the Washington state department of ecology (ecology) reissued the sand and gravel national pollutant discharge elimination system and state waste discharge general permit (permit). The permit becomes effective on April 1, 2021, and expires on March 31, 2026.

Purpose of the Permit: The permit provides statewide coverage for facilities that engage in sand and gravel operations, rock quarries, similar mining operations, concrete batch operations, and hot mix asphalt operations. The sand and gravel general permit does not provide coverage to facilities that are covered under an individual permit that authorizes discharges from these activities. The purpose of the permit is to control the discharge of pollutants from process water, stormwater, and mine dewatering water associated with sand and gravel activities into waters of the state. Under federal and state water quality laws (Federal Clean Water Act and State Water Pollution Control Act), a permit is required for the discharge of these wastewaters.

Public Notice Process and Comments: Ecology accepted public comments on the draft permit, fact sheet, and related documents from October 27, 2020, through 11:59 p.m. on December 11, 2020. Ecology held two public workshops and hearings via online webinars on December 2, 2020, and December 4, 2020. Ecology received written comments during the public comment period. The comments and ecology's responses are included in Appendix A of the fact sheet.

Copies of the Permit: You may download copies of the final permit, fact sheet, response to comments, and other supporting documents online at <https://ecology.wa.gov/sandandgravel>. You may also request copies from Kimberly Adams at kimberly.adams@ecy.wa.gov or 360-407-6448.

Applying for Coverage under the Permit: Permitted facilities that have complied with the one hundred eighty day duty to reapply requirement, General Condition G20 in the current permit, will be covered under the new permit. New or unpermitted facilities may obtain coverage under the permit by submitting a complete permit application to ecology and satisfying all applicable public notice and State Environmental Policy Act requirements (WAC 173-226-200). Access to the application is available online at <https://ecology.wa.gov/sandandgravel>.

Ecology Contact: Adrien Carroll-Perkins, Washington State Department of Ecology, P.O. Box 47696, Olympia, WA 98504-7696, phone 360-407-7386, email adrien.carroll-perkins@ecy.wa.gov.

Your Right to Appeal: You have a right to appeal the final general permit and the general permit coverage for a specific facility to the pollution control hearings board. The appeal process is governed by chapters 43.21B RCW and 371-08 WAC.

- Appeals of the general permit issuance must be filed **within thirty days of issuance** of the general permit. See the appeal of the general permit focus sheet for more information at <https://fortress.wa.gov/ecy/publications/documents/1710009.pdf>.
- Appeals of the general permit coverage for a specific facility must be filed **within thirty days of the effective date of coverage**. See the appeal of a general permit coverage focus sheet for

more information at <https://fortress.wa.gov/ecy/publications/documents/1710007.pdf>.

If you have questions, please contact Adrien Carroll-Perkins at adrien.carroll-perkins@ecy.wa.gov or 360-407-7386.

WSR 21-04-146

AGENDA

WASHINGTON STATE PATROL

[Filed February 3, 2021, 11:53 a.m.]

Pursuant to RCW 34.05.314, below is the Washington state patrol's semi-annual rules development agenda for January-July, 2021.

This report details current and anticipated rule-making activities for the Washington state patrol. This agenda is for information purposes, and the noted dates of anticipated rule-making actions are estimates. There may be additional rule-making activities not anticipated at this time, such as to implement new state laws, meet federal requirements, or other circumstances.

Please contact Kimberly Mathis at 360-596-4017 or Kimberly.mathis@wsp.wa.gov if you have any questions.

Chapter(s)	Rule Subject	Proposed Timeline		
		CR-101	CR-102	CR-103
204-50-050	Ignition interlock devices	6/20/2018	TBD	TBD
204-50-070	Ignition interlock devices	6/20/2018	TBD	TBD
446-95	SAK tracking system	8/19/2020	TBD	TBD
446-20	Employment conviction records	10/7/2020	12/7/2020	2/10/2021
446-65-010	Commercial motor vehicle regulations— Transportation requirements	5/20/2020	TBD	TBD
212-10	Smoke devices	9/14/2020	TBD	TBD

Kimberly Mathis
Rules Coordinator