

WSR 21-04-019
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed January 22, 2021, 1:01 p.m.]

MEMORANDUM

The department of labor and industries (L&I) is withdrawing CR-102 WSR 20-19-132 regarding reporting, classification, and rating for department of energy contractors working at Hanford, (chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance; and chapter 296-17A WAC, Classifications for Washington workers' compensation insurance) filed on September 22, 2020. L&I extended the comment period to February 1, 2021, with an effective date of April 1, 2021.

This withdrawal is due to the need for more stakeholder involvement and coordination. L&I will continue working with stakeholders to refine proposed rules for potential future rule making.

If you have any questions, please contact Tracy West, rules coordinator, at 360-902-6954 or Tracy.West@lni.wa.gov.

Tracy West
Rules Coordinator

WSR 21-04-023

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed January 25, 2021, 1:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-15-116.

Title of Rule and Other Identifying Information: WAC 246-809-080, 246-809-615, 246-809-630, and 246-809-632 licensure requirements for mental health counselors, marriage and family therapists, and social workers. The department of health (DOH) is proposing to align rules with statutory changes made by ESHB 2411 (chapter 229, Laws of 2020) requiring advanced suicide training and ESHB 1551 (chapter 76, Laws of 2020) repealing AIDS education and training.

Hearing Location(s): On March 11, 2021, at 1:00 p.m.

In response to the coronavirus disease 2019 (COVID-19), DOH will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Please register at <https://attendee.gotowebinar.com/register/6172813721980677390>. After registering, you will receive a confirmation email containing information about joining the webinar. Participants can use their telephone or computer mic and speakers (VoIP). United States +1 (631) 992-3221.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Brandon Williams, Office of Health Professions, P.O. Box 47850, Olympia, WA 98504-7850, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, brandon.williams@doh.wa.gov, by March 11, 2021.

Assistance for Persons with Disabilities: Contact Brandon Williams, phone 360-236-4611, fax 360-236-2901, TTY 711, email brandon.williams@doh.wa.gov, by March 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DOH has existing rules that regulate mental health counselors, marriage and family therapists, and social workers. ESHB 2411 (chapter 229, Laws of 2020) requires a new six-hour advanced training focused on suicide prevention for several mental health professions, including mental health counselors, marriage and family therapists, and social workers. ESHB 1551 (chapter 76, Laws of 2020) repealed statutory authority requiring AIDS training requirements for practitioners. The department is proposing rule amendments to align chapter 246-809 WAC with statutory changes made by both bills.

To align chapter 246-809 WAC with ESHB 2411, the department is proposing amending WAC 246-809-615, 246-809-630, and 246-809-632 to include the statutory requirements for an additional suicide prevention training. Proposed amendments will: Clarify that a licensed counselor must take a six-hour suicide prevention training every six years; add that the requirement for a second training will begin July 1, 2021; add that qualifying trainings will be included on the department's model list; add that qualifying trainings must focus on either suicide management, care, and treatment, or a treatment modality shown to be effective in working with people who are suicidal; clarify that if a licensed counselor has already completed their second training prior to July 1, 2021, the counselor's next training must comply with the new requirements; and add the additional suicide prevention train-

ing to continuing education requirements for licensed counselors and licensed associates.

To align chapter 246-809 WAC with ESHB 1551, the department is proposing repealing WAC 246-809-080 to remove AIDS education and training requirements.

Reasons Supporting Proposal: Proposed amendments to chapter 246-809 WAC will: (1) Implement ESHB 2411 by adding new advanced suicide prevention training requirements and promoting increased awareness of suicide prevention among health care professionals; and (2) support ESHB 1551 by repealing current requirements for AIDS trainings.

Statutory Authority for Adoption: RCW 18.225.040.

Statute Being Implemented: ESHB 2411 (chapter 229, Laws of 2020), ESHB 1551 (chapter 76, Laws of 2020).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brandon Williams, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4611.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

January 23, 2021
 Jessica Todorovich
 Chief of Staff
 for Umair A. Shah, MD, MPH
 Secretary

OTS-2725.1

AMENDATORY SECTION (Amending WSR 20-12-074, filed 6/1/20, effective 7/2/20)

WAC 246-809-615 Training standards for suicide assessment, treatment, and management. (1) A licensed counselor must, at least once every six years, complete training in suicide assessment, treatment, and management.

(2) A licensed counselor must complete training in suicide assessment, treatment, and management. The training must be provided by a single provider and must be at least six hours in length, which may be provided in one or more sessions.

(a) Until July 1, 2017, the training must be approved by an industry-recognized local, state, national, international organizations or institutions of higher learning listed in WAC 246-809-620 or an equivalent organization, educational institution or association which approves training based on observation and experience or best available practices;

(b) Beginning July 1, 2017, the training must be on the department's model list of training programs in suicide assessment, treatment and management. The model list is developed in accordance with rules adopted by the department that establish minimum standards for training programs. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017; ~~((and))~~

(c) An associate applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in (a) or (b) of this subsection no more than six years prior to the application for initial licensure ~~((-))~~;

~~((2))~~ (d) A licensed marriage and family therapist, licensed mental health counselor, licensed social worker, or licensed social worker associate who is a state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion ~~((-))~~; and

~~((3))~~ (e) A licensed marriage and family therapist, licensed mental health counselor, licensed social worker, or licensed social worker associate who is an employee of a licensed or certified behavioral health agency licensed under chapter 71.05 or 71.24 RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(3) Beginning July 1, 2021, a licensed counselor's second training must include advanced training or training in treatment modalities shown to be effective in working with people who are suicidal. The training required by this subsection must be on the department's model list.

(a) If a licensed counselor has already completed the counselor's second training prior to July 1, 2021, the counselor's next training must comply with this subsection.

(b) The requirements listed in this subsection do not apply if the licensee demonstrates that the training required is not reasonably available.

[Statutory Authority: 2019 c 444, 2019 c 446, 2019 c 351, and RCW 18.19.050, 18.205.060, 18.225.040, 43.70.110, and 43.70.250. WSR 20-12-074, § 246-809-615, filed 6/1/20, effective 7/2/20. Statutory Authority: RCW 18.225.040. WSR 17-13-082, § 246-809-615, filed 6/16/17, effective 7/17/17. Statutory Authority: RCW 43.70.442(7). WSR 14-09-102, § 246-809-615, filed 4/22/14, effective 4/22/14.]

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

WAC 246-809-630 Continuing education requirements. (1) An associate must complete eighteen hours of continuing education as required in WAC 246-809-632.

(2) Licensed social worker associate advanced and licensed social worker associate independent clinical must complete six hours of suicide assessment, treatment, and management CE as required in WAC 246-809-632.

(3) A licensed counselor must complete thirty-six hours of continuing education (CE) every two years.

(a) At least six of the thirty-six hours must be in professional ethics and law, which may include topics under RCW 18.130.180.

(b) Beginning January 1, 2014, at least once every six years a licensed marriage and family therapist, licensed mental health counselor, and licensed social worker must complete at least six hours of training in suicide assessment, treatment, and management.

(i) The first training must be completed during the first full CE reporting period after January 1, 2014, or the first full CE period after initial licensure, whichever occurs later.

(ii) Beginning July 1, 2017, ~~((the))~~ a qualifying suicide prevention training must be selected from the department's model list, as required in WAC 246-809-615.

(iii) Beginning July 1, 2021, a subsequent qualifying training must be selected from the department's model list, as required in WAC 246-809-615.

(iv) The hours spent completing training in suicide assessment, treatment, and management count toward the total thirty-six hours of CE.

~~((iv))~~ (v) An individual applying for initial licensure as a licensed marriage and family therapist, licensed mental health counselor, or licensed social worker on or after January 1, 2014, may delay completion of the first training required for six years after initial licensure if he or she can demonstrate completion of six hours of training in suicide assessment, treatment, and management that:

(A) Was completed no more than six years prior to the application for initial licensure; and

(B) Meets the qualifications listed in WAC 246-809-615.

[Statutory Authority: RCW 18.225.040. WSR 17-13-082, § 246-809-630, filed 6/16/17, effective 7/17/17. Statutory Authority: RCW 43.70.442(7). WSR 14-09-102, § 246-809-630, filed 4/22/14, effective 4/22/14. Statutory Authority: RCW 18.225.040. WSR 04-06-010, § 246-809-630, filed 2/20/04, effective 3/22/04. Statutory Authority: Chapter 18.19 RCW. WSR 02-11-108, § 246-809-630, filed 5/20/02, effective 6/20/02.]

AMENDATORY SECTION (Amending WSR 17-13-082, filed 6/16/17, effective 7/17/17)

WAC 246-809-632 Licensed associate continuing education. (1) All licensed associates must complete a total of eighteen hours of continuing education (CE) every year in order to renew their license.

The CEs must be completed in accordance with this chapter. An associate must attest to completing the CE every year during the renewal.

(2) Professional ethics and law CE for all licensed associates. All licensed associates must include six hours of CE in professional ethics and law every two years. The associates must attest to completing the CE during the second renewal, fourth renewal, and sixth renewal. These six CE hours may be completed anytime within the two-year period before each of these renewals. The six hours may contribute to the total eighteen hours of CE for the year in which the CE was completed.

(3) Suicide assessment, treatment, and management CE only for licensed social worker associate advanced and licensed social worker associate independent clinical.

(a) Licensed social worker associate advanced and licensed social worker associate independent clinical must complete:

(i) Six hours of suicide assessment, treatment, and management CE after initial licensure and before the first renewal in accordance with WAC 246-809-615 and 246-809-630; and

(ii) Six hours of subsequent training per WAC 246-809-615 and 246-809-630 in the following six-year period.

~~((a))~~ (b) The licensed social worker associate advanced and licensed social worker associate independent clinical may delay completing the first training if he or she can demonstrate completion of the training no more than six years before gaining their initial license.

~~((b))~~ (c) The hours spent completing training in suicide assessment, treatment, and management count toward the total eighteen hours of CE.

Table 1

Continuing Education Requirements by Licensure Renewal Dates

License Type	<ul style="list-style-type: none"> • Marriage and Family Therapist Associate • Mental Health Counselor Associate 	<ul style="list-style-type: none"> • Social Worker Associate Advanced • Social Worker Associate Independent Clinical
At Initial Licensure	Not applicable for initial licensure	Not applicable for initial licensure
Between Initial Licensure and First Renewal	18 Hours Total	18 Hours Total <ul style="list-style-type: none"> • 6 hours in suicide assessment, treatment, and management unless obtained 6 years prior to initial licensure
Between First and Second Renewal	18 Hours Total <ul style="list-style-type: none"> • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date 	18 Hours Total <ul style="list-style-type: none"> • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date
Between Second and Third Renewal	18 Hours Total	18 Hours Total
Between Third and Fourth Renewal	18 Hours Total <ul style="list-style-type: none"> • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date 	18 Hours Total <ul style="list-style-type: none"> • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date
Between Fourth and Fifth Renewal	18 Hours Total	18 Hours Total
Between Fifth and Sixth Renewal	18 Hours Total	18 Hours Total

	<ul style="list-style-type: none"> • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date 	<ul style="list-style-type: none"> • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date
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[Statutory Authority: RCW 18.225.040. WSR 17-13-082, § 246-809-632, filed 6/16/17, effective 7/17/17.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-809-080	AIDS prevention and information education requirements.
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WSR 21-04-024

PROPOSED RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed January 25, 2021, 2:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-18-040.

Title of Rule and Other Identifying Information: WAC 246-817-120 Examination content, the dental quality assurance commission is considering proposed rule amendments to add the Joint Commission on National Dental Examination's Dental Licensure Objective Structured Clinical Examination (DLOSCE) to the list of allowable practical/clinical examinations and allow an applicant to pass components of the practical examination using a maximum of two testing agencies administering all the practical examination sections in coordination with each other.

Hearing Location(s): On March 12, 2021, at 8:35 a.m.

In response to the coronavirus disease 2019 (COVID-19) public health emergency, the dental quality assurance commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without [a] physical meeting space, will be held instead.

To access the meeting: Please join the meeting from your computer, tablet, or smartphone. Please register for dental quality assurance commission business meeting March 12, 2021, on March 12, 2021, 8:30 a.m. PST at <https://attendee.gotowebinar.com/register/4445807509028701200>.

After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: March 12, 2021.

Submit Written Comments to: Jennifer Santiago, P.O. Box 47852, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, dental@doh.wa.gov, by March 1, 2021.

Assistance for Persons with Disabilities: Contact Jennifer Santiago, phone 360-236-4893, fax 360-236-2901, TTY 711, email jennifer.santiago@doh.wa.gov, dental@doh.wa.gov, by March 8, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission adopted emergency rule on December 8, 2020, as WSR 21-01-048 to:

- Add the joint commission's DLOSCE to the list of allowable practical/clinical examinations; and
- Allow an applicant to pass components of the practical examination using one or more testing agencies, rather than only one agency.

The commission is proposing permanent amendments to:

- Add the joint commission's DLOSCE to the list of allowable practical/clinical examinations; and
- Allow an applicant the option to pass components of the practical examination using a maximum of two testing agencies administering all the practical examination sections in coordination with each other.

Reasons Supporting Proposal: In response to novel coronavirus 2019 (COVID-19), all regional, patient-based clinical dentist examina-

tions were cancelled for 2020 in the United States. Prior to COVID-19, the commission was evaluating the new DLOSCE as it was being developed. The pandemic pushed the DLOSCE to publish the new clinical examination one year earlier than anticipated.

The commission received a request from the University of Washington School of Dentistry and other dental organizations to approve a new simulated-based clinical exam. The DLOSCE is a practical/clinical examination that is computer-based and does not use patients. Adding DLOSCE to the list of allowable practical/clinical examinations will allow graduates an additional examination option to obtain Washington state dentist licensure.

Regional examination testing agencies have developed simulated-based clinical dentist examinations to replace patient-based examinations. However, one or more of the testing agencies are unable to offer all required sections through simulated-based examination. Removing the requirement for all examination content sections to be passed with a single testing agency will provide additional options for new graduates to obtain clinical examinations for Washington state dentist licensure. The commission discovered there are regional testing agencies that do not provide all sections of the examination, this rule modification may assist applicants with future examination options. The commission determined that the two different testing agencies should be the maximum and they must coordinate with each other to allow the applicant to test with both agencies. Testing agencies build their examination sections as a whole but coordination of testing agencies allow for a more complete examination.

Statutory Authority for Adoption: RCW 18.32.002 and 18.32.0365.

Statute Being Implemented: RCW 18.32.040.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: None.

Name of Proponent: Dental quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Santiago, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4893.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jennifer Santiago, P.O. Box 47852, Olympia, WA 98504, phone 360-236-4893, fax 360-236-2901, TTY 711, email jennifer.santiago@doh.wa.gov, dental@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. A small business economic impact statement was not prepared. A significant cost analysis has been completed. Changes in this proposed rule do not increase costs to licensed dentists. Licensed dentists are not required to complete the added clinical/practical examination option. Additional clinical/practical examination options reduce licensure barriers for new graduates to obtain Washington state dentist licensure.

January 25, 2021
Aaron Stevens, DMD
Chairperson

OTS-2209.3

AMENDATORY SECTION (Amending WSR 19-15-094, filed 7/22/19, effective 8/22/19)

WAC 246-817-120 Examination content. (1) An applicant seeking dentist licensure in Washington by examination, must successfully pass a written and practical examination approved by the Dental Quality Assurance Commission (commission).

The examination will consist of:

(a) A written examination. The Integrated National Board Dental Examination, Parts I and II of the National Board Dental Examination, or the Canadian National Dental Examining Board examination will be accepted, except as provided in subsection (4) of this section.

(b) A practical examination containing at least the following sections:

(i) Restorative;

(ii) Endodontic;

(iii) Periodontal;

(iv) Prosthodontic; and

(v) Comprehensive treatment planning or diagnostic skills.

(2) (a) The commission accepts the following practical examinations provided the testing agency offers at least the sections listed in subsection (1) (b) of this section:

(i) The Western Regional Examining Board's (WREB) clinical examination;

(ii) The Central Regional Dental Testing Services (CRDTS) clinical examination;

(iii) The Commission on Dental Competency Assessments (CDCA) formally known as Northeast Regional Board (NERB) clinical examination;

(iv) The Southern Regional Testing Agency (SRTA) clinical examination;

(v) The Council of Interstate Testing Agency's (CITA) clinical examination;

(vi) U.S. state or territory with an individual state board clinical examination;

(vii) The Joint Commission on National Dental Examinations dental licensure objective structured clinical examination (DLOSCE); or

(b) The commission will accept the complete National Dental Examining Board (NDEB) of Canada clinical examination as meeting its standards if the applicant is a graduate of an approved dental school defined in WAC 246-817-110 (2) (a).

(3) The applicant must pass all practical examination sections listed in subsection (1) (b) of this section (~~(of the practical examination)~~) with the following:

(a) The same testing agency; or

(b) A maximum of two testing agencies listed in subsection (2) (a) of this section administering all the practical examination sections in coordination with each other.

(4) The commission will only accept results of approved practical examinations taken within the preceding five years from the date of an application for licensure.

(5) The commission may, at its discretion, give or require an examination in any other subject under subsection (1) (a) and (b) of this section, whether in written or practical form or both written and practical.

[Statutory Authority: RCW 18.32.002, 18.32.0365, and 18.32.040. WSR 19-15-094, § 246-817-120, filed 7/22/19, effective 8/22/19; WSR 17-22-035, § 246-817-120, filed 10/24/17, effective 11/24/17. Statutory Authority: RCW 18.32.0365 and 18.32.040. WSR 16-14-067, § 246-817-120, filed 6/30/16, effective 7/31/16; WSR 08-23-019, § 246-817-120, filed 11/6/08, effective 12/7/08. Statutory Authority: RCW 18.32.035. WSR 95-21-041, § 246-817-120, filed 10/10/95, effective 11/10/95.]

WSR 21-04-071
PROPOSED RULES
BIG BEND
COMMUNITY COLLEGE

[Filed January 29, 2021, 12:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-20-139.

Title of Rule and Other Identifying Information: Student code of conduct violations, WAC 132R-04-057; Supplemental Title IX student conduct procedures, WAC 132R-04-300, 132R-04-305, 132R-04-310, 132R-04-315, 132R-04-320, 132R-04-325, 132R-04-330, 132R-04-335, and 132R-04-340.

Hearing Location(s): On March 9, 2021, at 2:30 [p.m.] This hearing will be held via Zoom/phone conference due to Governor Inslee's COVID[-19] restrictions. The link will be shared on the Big Bend Community College (BCC) WAC rules process site <https://www.bigbend.edu/about-us/policies-and-procedures/>.

Date of Intended Adoption: March 24, 2021.

Submit Written Comments to: Melinda Owens Dourte, 7662 Chanute Street N.E., email melindad@bigbend.edu, 509-793-2001, by March 2, 2021.

Assistance for Persons with Disabilities: Contact Azucena Halmsteiner, phone 509-793-2027, email azucenah@bigbend.edu.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: BCC edited sections and created new sections to update current chapter 132R-04 WAC, Student conduct code, in order to be in compliance with: (1) The new United States Department of Education (DOE) Title IX regulations that went into effect on August 14, 2020, and (2) the Washington State Court of Appeals Division III decision in *Nelson v. Spokane Community College*, 14 Wn. App.2d 40, 469 P.3d 317 (2020).

Reasons Supporting Proposal: On May 19, 2020, the Federal Register printed amendments to Title IX regulations (85 F.R. 30575). The new regulations address the grievance process for formal complaints of sexual harassment. This updates the college's student conduct code to be compliant with federal regulations. Agencies not in compliance would be at risk of losing federal funding. In addition, on August 4, 2020, the Washington Court of Appeals Division III filed an opinion regarding academic misconduct in the *Nelson v. Spokane Community College*, 14 Wn. App.2d 40, 469 P.3d 317 (2020). The proposed amendment to WAC 132R-04-057 provides clarification regarding BCC's treatment of academic misconduct to ensure compliance with the decision of the court of appeals.

Statutory Authority for Adoption: Chapter 34.05 RCW; and RCW 28B.50.140(13).

Statute Being Implemented: 34 C.F.R. Part 106.

Rule is necessary because of federal law, and state court decision, 34 C.F.R. Part 106; *Nelson v. Spokane Community College*, 14 Wn. App.2d 40, 469 P.3d 317 (2020).

Name of Proponent: BCC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Andre Guzman or Kim Garza, 7662 Chanute Street N.E., Moses Lake, 509-793-2077 or [509-793-]2010.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. BBCC is not one of the enumerated agencies required to conduct cost-benefit analyses under RCW 34.05.328(5).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

January 29, 2021
Melinda Dourte
Executive Assistant
to the President

OTS-2757.1

AMENDATORY SECTION (Amending WSR 18-17-026, filed 8/6/18, effective 9/6/18)

WAC 132R-04-057 Student code of conduct violations. The college may impose sanctions against a student who commits, attempts to commit, aids, abets, incites, encourages, or assists another person to commit an act of misconduct. Misconduct for which the college may impose sanctions includes, but is not limited to, any of the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, or fabrication.

(a) Cheating includes, but is not limited to, any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes, but is not limited to, taking and using as one's own, without proper attribution, the ideas, writings, or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment, and also includes providing false or deceptive information in an instructional course concerning the completion of an assignment.

(d) This section shall not be construed as preventing an instructor from taking immediate disciplinary action as provided herein where the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom.

(e) This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.

(2) **Other dishonesty.** Acts of dishonesty include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; or

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee.

(3) **Obstructive or disruptive conduct.** Conduct not otherwise protected by law that interferes with, impedes, or otherwise unreasonably hinders:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) **Assault, intimidation, harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this code, bullying is repeated or aggressive unwanted behavior, not otherwise protected by law, that humiliates, harms, or intimidates the victim.

(5) **Cyber misconduct.** Cyber misconduct including, but not limited to: Cyberstalking, cyberbullying, or online harassment.

(a) Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person.

(b) Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third-parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person.

Property for the purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(7) **Failure to comply with directive.** Failure to comply with the directive(s) of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) **Weapons.** Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon apparently capable of producing bodily harm, unless previously authorized by the vice president of learning and student success. This policy does not apply to the possession of a personal protection spray device, as authorized by RCW 9.91.160. This policy is subject to the following exceptions:

(a) Commissioned law enforcement personnel in the state of Washington, legally authorized military personnel while in performance of their duties, and other persons or entities authorized by contract to carry firearms in the course of their employment;

(b) A student with a valid concealed weapons permit may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or designee may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(9) **Hazing.** Hazing includes, but is not limited to, any initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student.

(10) **Alcohol, drug, and tobacco violations.**

(a) Alcohol. The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) Marijuana. The use, possession, delivery, or sale of marijuana or the psychoactive compounds found in marijuana intended for human consumption, regardless of form, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.

(c) Drugs. The use, possession, delivery, sale, or being observably under the influence of any legend drug (including anabolic steroids, androgens, or human growth hormones), narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, except in accordance with a lawful prescription for that student by a licensed health care professional.

(d) Tobacco, electronic cigarettes, and related products. The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college, or in any location where such use is prohibited, or in any location other than the parking lots, including twenty-five feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas.

"Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff.

(11) **Disorderly conduct.** Conduct which is disorderly, lewd, indecent, or obscene, that is not otherwise protected under the law.

(12) **Discriminatory conduct.** Conduct which harms or adversely affects any member of the college community because of race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual

harassment prohibited by Title IX is defined in the supplemental procedures to this code. See WAC 132R-04-103.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome sexual or gender-based conduct (~~(of a sexual nature)~~), including unwelcomed sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently (~~(serious)~~) severe, persistent, or pervasive as to:

~~(i) Deny or limit (, and that does deny or limit, based on sex,) the ability of a student to participate in or benefit from the college's educational programs or activities (or that);~~

~~(ii) Alter the terms or conditions of employment for a college employee(s); and/or~~

~~(iii) Create(s) an intimidating, hostile, or offensive environment for other campus community members.~~

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of sexual harassment and means threatening or emotionally distressing conduct based on sex. This includes, but is not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse (~~(is)~~). Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact (~~(is)~~). Any ((intentional)) actual or attempted sexual touching, however slight, with any object or body part, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

~~(iii) ((Domestic violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.~~

~~(iv) Dating violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.~~

~~(v) Stalking means intentional and repeated harassment or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such intent.~~

~~(vi)) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of eighteen.~~

(iv) Statutory rape. Consensual intercourse between a person who is eighteen years of age or older, and a person who is under the age of sixteen.

(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(vi) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(vii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for their safety or the safety of others; or

(B) Suffer substantial emotional distress.

(viii) Consent ((÷)). Clear, knowing, and voluntary permission by word or action to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be actual words or conduct indicating freely given agreement to the act at the time of the act. Consent cannot be inferred from silence, passivity, or lack of active resistance. Consent can be withdrawn by either party at any point. Consent to engage in one activity, or past agreement to engage in a particular activity, cannot be presumed to constitute consent to engage in a different activity or to engage in the same activity again. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. A person cannot consent if they are unable to understand what is happening or are disoriented, or if they are asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapable of consent has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(14) Harassment. Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; sexual orientation; gender

identity; veteran's status; or any other legally protected classification. See supplemental definitions: "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic communications.

(15) **Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(16) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

(17) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(18) **Safety violations.** Safety violation includes any nonaccidental conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(19) **Abuse of process.** Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena or order to appear at a hearing;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student disciplinary committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(20) **Unsafe vehicle operation.** Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(21) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college traffic and parking rules.

(22) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

(23) **Aiding or abetting.** Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

[Statutory Authority: RCW 28B.50.140. WSR 18-17-026, § 132R-04-057, filed 8/6/18, effective 9/6/18; WSR 17-22-054, § 132R-04-057, filed 10/25/17, effective 11/25/17; WSR 16-15-011, § 132R-04-057, filed 7/8/16, effective 8/8/16. Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-04-057, filed 7/14/03, effective 8/14/03.]

OTS-2512.1

NEW SECTION

WAC 132R-04-300 Order of precedence. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the college's standard disciplinary procedures, WAC 132R-04-010 through 132R-04-200, these supplemental procedures shall take precedence.

[]

NEW SECTION

WAC 132R-04-305 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" encompasses the following conduct:

(1) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(d) Statutory rape. Consensual sexual intercourse between someone who is eighteen years of age or older and someone who is under the age of sixteen.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

[]

NEW SECTION

WAC 132R-04-310 Title IX jurisdiction. (1) This supplemental procedure applies only if the alleged misconduct:

- (a) Occurred in the United States;
- (b) Occurred during a college educational program or activity;

and

(c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.

(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the college.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit the college from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the college's student conduct code, WAC 132R-04-010 through 132R-04-200.

(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

[]

NEW SECTION

WAC 132R-04-315 Initiation of discipline. (1) Upon receiving the Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

- (a) Set forth the basis for Title IX jurisdiction;
- (b) Identify the alleged Title IX violation(s);
- (c) Set forth the facts underlying the allegation(s);
- (d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);

and

(e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:

(i) The advisors will be responsible for questioning all witnesses on the party's behalf;

- (ii) An advisor may be an attorney; and

(iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so.

(3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

[]

NEW SECTION

WAC 132R-04-320 Prehearing procedure. (1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132R-04-130. In no event will the hearing date be set less than ten days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

[]

NEW SECTION

WAC 132R-04-325 Rights of parties. (1) The college's student conduct procedures, WAC 132R-04-010 through 132R-04-200, and this supplemental procedure shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

[]

NEW SECTION

WAC 132R-04-330 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) **Relevance:** The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) **Relevance** means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) **Cross-examination required:** If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.

(5) **No negative inference:** The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) **Privileged evidence:** The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

[]

NEW SECTION

WAC 132R-04-335 Initial order. (1) In addition to complying with WAC 132R-04-140, the student conduct committee will be responsible for conferring and drafting an initial order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination of responsibility;

(d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;

(e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;

(f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;

(g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to the college's education programs or activities; and

(h) Describes the process for appealing the initial order to the college president.

(2) The committee chair will serve the initial order on the parties simultaneously.

[]

NEW SECTION

WAC 132R-04-340 Appeals. (1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132R-04-150.

(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) President's office shall serve the final decision on the parties simultaneously.

[]

WSR 21-04-081

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Psychology)

[Filed January 29, 2021, 4:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-17-082.

Title of Rule and Other Identifying Information: WAC 246-924-110 and 246-924-255, the examining board of psychology (board) is proposing amending WAC 246-924-255 and repealing WAC 246-924-110 to align the rules with statutory changes made by ESHB 2411 (chapter 229, Laws of 2020) requiring advanced suicide training and ESHB 1551 (chapter 76, Laws of 2020) repealing AIDS education and training.

Hearing Location(s): On March 11, 2021, at 12:00 p.m.

In response to the coronavirus disease 2019 (COVID-19), the board of psychology will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Microsoft Teams meeting mobile app [Date of Intended Adoption: March 11, 2021.](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGUyMjBiZTYtMjlkMC00ZmJjLTk4NDUtMDQ1YTI5MGUyY2Zm%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%22eac245ae-6a20-47bd-a56d-a85560e605f8%22%7d; or call in (audio only) +1 253-372-2181,,837257343# United States, Tacoma, phone conference ID 837 257 343#.</p></div><div data-bbox=)

Submit Written Comments to: Stacey Saunders, Office of Health Professions, P.O. Box 47850, Olympia, WA 98504-7850, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, stacey.saunders@doh.wa.gov, by March 4, 2021.

Assistance for Persons with Disabilities: Contact Stacey Saunders, phone 360-236-2813, fax 360-236-2901, TTY 711, email stacey.saunders@doh.wa.gov, by March 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board has existing rules that regulate practitioners licensed as psychologists, ESHB 2411 requires a new six-hour advanced training focused on suicide prevention for several mental health professions, including psychologists. ESHB 1551 repealed statutory authority requiring AIDS training requirements for practitioners. The board is proposing rule amendments to align chapter 246-924 WAC with these statutory changes.

To align chapter 246-924 WAC with ESHB 2411, the board is proposing amending WAC 246-924-255 to include statutory requirements for an additional advanced suicide prevention training. Proposed amendments will: Clarify that a licensed psychologist must take a six-hour suicide prevention training every six years; add that the requirement for a second training will begin July 1, 2021; add that qualifying trainings will be included on the department of health's model list; add that qualifying trainings must focus on either suicide management, care, and treatment or a treatment modality shown to be effective in working with people who are suicidal; clarify that if a psychologist has already completed their second training prior to July 1, 2021, the psychologist's next training must comply with the new statutory requirements; add that the requirement to complete the new, second training will not apply if the psychologist demonstrates that a quali-

fyng training is not reasonably available; and incorporating gender-neutral language.

To support ESHB 1551, the board is proposing repealing WAC 246-924-110, to remove AIDS training requirements from chapter 246-924 WAC.

Reasons Supporting Proposal: The primary intent of ESHB 2411 is to reduce suicide rates among Washingtonians by equipping health professionals and mental health professionals with advanced, evidence-based training on suicide management, treatment, and prevention. The board's proposed rules support the intent of the ESHB 2411 by incorporating new statutory requirements for new trainings into WAC 246-924-255.

The intent of ESHB 1551 is to modernize laws on certain communicable diseases to reflect current science and reduce HIV-related stigma. The board's proposed repeal of WAC 246-924-110 supports this intent by repealing requirements for AIDS education and training, consistent with statutory repeals made by the bill.

Statutory Authority for Adoption: RCW 18.83.050.

Statute Being Implemented: ESHB 2411 (chapter 229, Laws of 2020) and ESHB 1551 (chapter 76, Laws of 2020).

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

Name of Proponent: Examining board of psychology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Stacey Saunders, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-2813.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

January 29, 2021

Rachaud Smith, PsyD, Chair
Examining Board of Psychology

OTS-2711.2

AMENDATORY SECTION (Amending WSR 17-06-056, filed 2/28/17, effective 3/31/17)

WAC 246-924-255 Suicide intervention training standards. (1) Each licensed psychologist must, at least once every six years, complete training in suicide assessment, treatment, and management.

(2) An approved training in suicide assessment, treatment, and management must:

(a) Cover training in suicide assessment, including screening and referral, suicide treatment, and suicide management;

(b) Be provided by a single provider and must be at least six hours in length, which may be provided in one or more sessions; and

(c) Be on the department's model list developed in accordance with RCW 43.70.442. Nothing in this section invalidates trainings completed according to this chapter before July 1, 2017.

~~((2))~~ (3) A licensed psychologist who is a state or local government employee is exempt from the requirements of subsection (2) of this section if ~~((he or she))~~ the psychologist receives a total of at least six hours of training in suicide assessment, treatment, and management from ~~((his or her))~~ their employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

~~((3))~~ (4) A licensed psychologist who is an employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of subsection (2) of this section if ~~((he or she))~~ the psychologist receives a total of at least six hours of training in suicide assessment, treatment, and management from ~~((his or her))~~ an employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

~~((4))~~ (5) A licensed psychologist who obtained training under subsection ~~((2))~~ (3) or ~~((3))~~ (4) of this section may obtain continuing education credit for that training subject to documentation as defined in WAC 246-924-300.

(6) Beginning July 1, 2021, a licensed psychologist's second training must be a qualifying advanced training or training in treatment modalities shown to be effective in working with people who are suicidal, developed under RCW 43.70.442 and listed on the department's model list.

(7) If a licensed psychologist has already completed the psychologist's second training prior to July 1, 2021, the psychologist's next training must comply with subsection (6) of this section.

(8) The requirements listed in subsection (6) of this section do not apply if the licensee demonstrates that the training required is not reasonably available.

[Statutory Authority: RCW 18.83.090 and 43.70.442. WSR 17-06-056, § 246-924-255, filed 2/28/17, effective 3/31/17. Statutory Authority: RCW 43.70.442(7), 18.83.090, 2012 c 181, and 2013 c 78. WSR 14-01-071, § 246-924-255, filed 12/16/13, effective 1/1/14.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-924-110 AIDS education and training.

WSR 21-04-096

PROPOSED RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

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

Original Notice.

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

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

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

Date of Intended Adoption: March 12, 2021.

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

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

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

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

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

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

Statutory Authority for Adoption: RCW 18.79.010 and 18.79.110.

Statute Being Implemented: RCW 18.79.010.

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

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

Name of Agency Personnel Responsible for Drafting and Implementation: Shad Bell, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4711; Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-4757.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Shad Bell, P.O. Box 47864, Olympia, WA 98504, phone 360-236-4711, fax 360-236-4738, TTY 711, email Shad.Bell@doh.wa.gov.

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

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

OTS-2383.5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-840-240 Extension.

WSR 21-04-101
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed February 1, 2021, 10:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-17-045.

Title of Rule and Other Identifying Information: WAC 181-77-031, 181-77A-029, 181-77A-080, 181-78A-100, 181-78A-105, 181-78A-205, 181-78A-207, 181-78A-209, 181-78A-210, 181-78A-215, 181-78A-220, 181-78A-231, 181-78A-232, 181-78A-233, 181-78A-234, 181-78A-235, 181-78A-236, 181-78A-237, 181-78A-300, 181-79A-030, and 181-80-010.

Hearing Location(s): On March 18, 2021, at 8:00 a.m. Virtual board meeting <https://www.pesb.wa.gov/about-us/board-meetings/>, <https://www.pesb.wa.gov/about-us/contact-us/>.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by March 15, 2021, 8 a.m.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by March 10, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Nonsubstantive changes to clarify language, ensure consistency, and better organize program standards and WAC requirements.

Reasons Supporting Proposal: Internal and external stakeholders can more easily find and understand WAC related to program standards and requirements.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-867-8424; Implementation and Enforcement: PESB, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-725-6275.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The probable benefits of the rule are greater than its probable cost.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

January 29, 2021
Maren Johnson
Rules Coordinator

OTS-2821.1

AMENDATORY SECTION (Amending WSR 19-15-112, filed 7/22/19, effective 8/22/19)

WAC 181-77-031 Requirements for candidates seeking career and technical education certification who have completed approved teacher preparation programs in a career and technical education endorsement area. Candidates shall complete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-155. Candidates shall complete preparation programs under the standards in chapter 181-78A WAC.

(1) **Initial.**

(a) Candidates for the initial certificate shall hold a baccalaureate degree from an accredited college or university (~~which includes a minimum of forty-five quarter hours of study in the specific career and technical education subject area for which certification is sought~~).

(b) Candidates for the initial certificate shall demonstrate competency in one or more of the career and technical education broad areas: Agriculture education, business and marketing education, family and consumer sciences education, and technology education, as listed in WAC 181-77-005.

(c) Candidates for the initial certificate shall complete a state approved career and technical education teacher training program which shall include completion of student teaching in the relevant career and technical education subject area.

(d) Candidates for the initial certificate shall provide documentation of two thousand hours occupational experience in the broad area for which certification is sought. If all or part of the two thousand hours is more than ten years old, candidates must complete an additional three hundred hours of recent (occurring in the last two years) occupational experience. The candidate must also apply for the residency teacher certificate or add the subject area to their teacher certificate in their subject area, take and pass the content knowledge test(s) for subject area, be issued the teacher certificate before the CTE initial can be issued.

(e) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) **Initial renewal.** Candidates for renewal of the initial certificate must complete one hundred continuing education credit hours in the subject area certified to teach since the initial certificate was issued, or four professional growth plans as defined in WAC 181-85-033. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing

education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(3) **Continuing.**

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least fifteen quarter hours or one hundred fifty continuing education credit hours of career and technical education educator training in the career and technical education subject area to be certified completed subsequent to the conferral of the baccalaureate degree.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years of teaching/coordination in the career and technical education subject area certified to teach with an authorized employer (i.e., school district(s) or skills center(s)).

(4) **Continuing certificate renewal.** Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate:

(a) Ten quarter hours or one hundred continuing education credit hours of career and technical education educator training, or four professional growth plans as defined in WAC 181-85-033. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(b) Continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsement areas. This STEM continuing education requirement for certificate renewal is as described in WAC 181-85-075(6).

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-112, § 181-77-031, filed 7/22/19, effective 8/22/19. Statutory Authority: RCW 28A.410.220. WSR 18-21-070, § 181-77-031, filed 10/11/18, effective 11/11/18; WSR 18-08-007, § 181-77-031, filed 3/22/18, effective 4/22/18. Statutory Authority: RCW 28A.410.210. WSR 16-23-064, § 181-77-031, filed 11/14/16, effective 12/15/16; WSR 16-07-096, § 181-77-031, filed 3/18/16, effective 4/18/16; WSR 08-16-004, § 181-77-031, filed 7/23/08, effective 8/23/08; WSR 06-14-010, § 181-77-031, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-77-031, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). WSR 02-04-018, § 180-77-031, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. WSR 00-18-064, §

180-77-031, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. WSR 98-01-026, § 180-77-031, filed 12/8/97, effective 1/8/98; WSR 97-04-085, § 180-77-031, filed 2/5/97, effective 3/8/97; WSR 95-12-056, § 180-77-031, filed 6/2/95, effective 7/3/95.]

OTS-2820.1

AMENDATORY SECTION (Amending WSR 19-15-112, filed 7/22/19, effective 8/22/19)

WAC 181-77A-029 Procedures for approval and review of a career and technical education teacher preparation program for candidates applying under WAC 181-77-041. ~~((1))~~ A prospective provider desiring to establish a career and technical education teacher preparation program for candidates applying under WAC 181-77-041 shall comply with the policy established for program approval and review in chapter 181-78A WAC.

~~((2) Establish and maintain a representative program education advisory board including career and technical education teachers from the discipline, at least one first-year teacher (if applicable) who has completed the respective program, career and technical education administrators, and industry and/or community representatives.~~

~~The purpose of the program education advisory board is to advise, validate, and review the integrity of the respective career and technical education teacher education program.)~~

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-112, § 181-77A-029, filed 7/22/19, effective 8/22/19. Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-77A-029, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-77A-029, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). WSR 02-04-018, § 180-77A-029, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. WSR 00-18-064, § 180-77A-029, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). WSR 99-12-014, § 180-77A-029, filed 5/21/99, effective 6/21/99. Statutory Authority: RCW 28A.410.010 and 28A.305.130. WSR 97-04-087, § 180-77A-029, filed 2/5/97, effective 3/8/97.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 181-77A-080 Substitute pay for members of professional education advisory boards.

OTS-2819.1

AMENDATORY SECTION (Amending WSR 20-16-027, filed 7/24/20, effective 8/24/20)

WAC 181-78A-100 Existing approved programs. Providers of programs approved by the board shall comply with the review process established in this chapter and published by the board.

(1) Teacher and principal preparation programs: The board will annually review performance data of all educator preparation programs based on components and indicators established in this chapter and published by the board. The professional educator standards board will provide annual updated written guidance to providers regarding the submission of annual program data.

(a) Notification: If annual preparation program data analysis indicates that program performance falls below thresholds during any given review period, the board staff will provide written notification to the educator preparation program provider. The educator preparation program provider may choose to submit a response to the board staff. The response must be received by board staff within four weeks following receipt of the notification by the provider. The response should offer evidence of factors and circumstances that explain why program performance is below board approved thresholds on the indicators identified in the notice. The board staff will offer providers guidance on content and timelines for submission of this optional response. The board will review responses concurrently with annual data analysis reports.

(b) Interventions: Providers with program performance below indicator thresholds are subject to graduated levels of intervention as follows:

(i) Intervention 1 - Required self-study report: If a provider that received written notification of performance below threshold on one or more indicators during the previous review period has performance below thresholds on the same indicator(s) during the subsequent review period, the board will send the provider a second notification. The provider must complete a self-study report related to the components and domain(s) identified in both notifications and submit it to the board. The board will give providers written timelines and guidance for the submission of these materials. In the self-study report, the provider may also submit evidence and a description of the provider's performance related to the indicator(s), components, and domains identified in the notifications. If the board is satisfied with the self-study report, the board will approve it at a board meeting. If the board is not satisfied with the self-study report, staff will give providers additional written timelines and guidance to address the board's concerns.

(ii) Intervention 2 - Formal review: If a provider demonstrates performance below thresholds for a third successive review period or more, the professional educator standards board will provide a third notification. Based on its discretion and authorized by a vote, the board also may require a formal review related to the provider's performance in the domains of practice identified in the notifications. Prior to commencing a formal review, the board will consider the notifications, responses, and self-study report to determine whether to proceed with or postpone a formal review.

(A) The formal review will incorporate the following elements:

(I) The board shall determine the schedule for formal reviews and whether an on-site visit or other forms of documentation and valida-

tion will be used to evaluate programs under program approval standards.

(II) The provider will submit requested evidence to the board staff.

(III) A review team, including at least one member of the board, will review the evidence. The review team may request additional information including information provided through interviews with provider staff or affiliates as needed.

(IV) The review team will provide a report to the board identifying areas of practice associated with the previous notifications where the provider is out of compliance with educator preparation program requirements (~~established in WAC 181-78A-300 and the educator preparation program~~), expectations, and outcomes established in chapter 181-78A WAC ((181-78A-220)). The review team may also identify areas of practice where the provider is out of compliance with educator preparation program requirements that were not associated with previous notifications but were noticed by the review team during the process of review. The report may also identify whether the approved indicators or thresholds are functioning as intended.

(V) Board staff serving on the review team will provide assistance to the review team during the review process but will not serve in an evaluative role.

(VI) The review team will submit its report and other appropriate documentation to the provider and the board within one year of the board designating the program for formal review.

(VII) The board may extend the length of the one-year period for submission of the review team's report up to two years at its discretion.

(B) Providers may submit a reply to the review team report within two weeks following receipt of the report. The reply is to focus on the evidence, conclusions, and recommendations in the report but also may include additional evidence of factors and circumstances that explain why program performance is persistently below board approved thresholds on the indicators identified in the notice and self-study report. The board shall publish the process for submitting and reviewing the reply.

(C) In considering the review team's report, the board may request additional information or review, or take action to extend, or change the program's approval status per the provisions of WAC 181-78A-110.

(c) A provider may request a hearing in instances where it disagrees with the board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW and will adhere to the process of brief adjudicated hearings. The provider seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035 no more than thirty calendar days from the decision date.

(d) The board will publish a schedule for its review of the domains, components, indicators and thresholds. This review will occur at least every five years and not more frequently than every two years.

(2) Superintendent programs: The board will annually review data related to the performance of all superintendent programs according to data reporting guidance published by the board.

(a) Annual data analysis: After each annual review period, the board will give superintendent program providers written analysis of the program's annual data submission.

(b) Superintendent program review: The professional educator standards board shall determine the schedule for formal reviews and whether an on-site visit or other forms of documentation and validation shall be used for evaluation.

(i) Superintendent program reviews will be conducted at least every five years and not more frequently than every three years.

(ii) Superintendent program providers will submit requested evidence to the staff of the professional educator standards board.

(iii) A review team, including at least one member of the professional educator standards board, will review the evidence and request additional information including information provided through interviews with provider staff or affiliates as needed. One board staff member will serve on the review team to provide assistance to the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include at least one P-12 practitioner with expertise related to the program scheduled for review and two individuals with expertise related to the domains of practice identified in annual written analyses.

(iv) One of the two providers with peer representatives on the review team will be scheduled for annual review during the subsequent review period.

(v) At least three months in advance of scheduled review, superintendent program providers must complete a self-study report related to the components and domain(s) identified in the written analyses of annual data submissions. The board will give providers written timelines and guidance for the submission of these materials. In the self-study report, the provider may also provide evidence and a description of the provider's performance related to the indicator(s), components, and domains identified in the notifications. Evidence shall include such data and information from the annual data submissions required per WAC 181-78A-255(2) as have been designated by the board as evidence pertinent to the program approval process.

(c) Following the review, the review team will provide a report identifying any areas where the program is out of compliance with requirements (~~established in WAC 181-78A-300 and the program~~), expectations, and outcomes established in chapter 181-78A WAC (~~181-78A-220~~).

(i) The report may also verify or contradict that the approved indicators or thresholds are functioning as intended.

(ii) The board may extend the length of the one-year report period up to two years at its discretion. The review team's report and other appropriate documentation will be submitted to the provider and the board within one year of the board designating the program for formal review.

(iii) Providers may submit a reply to the review team report within two weeks following receipt of the report. The reply is limited to evidence that the review disregarded state standards, failed to follow state procedures for review, or failed to consider evidence that was available at the time of the review. The board shall publish the process for submitting and reviewing the reply.

(iv) In considering the review team's report, the board may request additional information or review, or take action to extend or change the educator preparation program's approval status per the provisions of WAC 181-78A-110.

(d) A provider may request a hearing in instances where it disagrees with the professional educator standards board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW and will adhere to the process of brief, adjudicated hearings. The provider seeking a hearing will provide a written request to the board in accordance with WAC 10-08-035 no more than thirty calendar days from the decision date.

(3) Program administrator programs: The board will annually review data related to the performance of all program administrator programs according to data and reporting guidelines published by the board.

(a) Program administrator programs implemented in conjunction with principal preparation programs will be reviewed concurrently with that provider's principal preparation program.

(b) Program administrator programs implemented in conjunction with superintendent preparation programs will be reviewed concurrently with that provider's superintendent preparation program.

(4) School counseling programs. School counseling program providers shall comply with accrediting procedures for council for the accreditation for counseling and related education programs, unless the program has been specifically approved to operate under alternative national standards per WAC 181-78A-225. The professional educator standards board will review preparation programs' alignment with any additions to the national standards deemed necessary by the professional educator standards board.

(a) A provider of residency school counseling programs without approval from council for the accreditation for counseling and related education programs shall provide proof to the professional educator standards board that it will seek such accreditation, unless the program has been specifically approved to operate under alternative national standards per WAC 181-78A-225.

(b) The board will place any existing approved residency school counseling program not accredited from the council for the accreditation for counseling and related education programs into disapproval status on November 1, 2022, unless the program provider produces evidence of seeking such accreditation, or unless that program has been specifically approved to operate under alternative national standards per WAC 181-78A-225.

(5) School psychology programs. Providers of school psychology programs shall comply with accrediting procedures for the National Association for School Psychology. School psychology program providers shall comply with accrediting procedures for the National Association for School Psychology, unless the program has been specifically approved to operate under alternative national standards per WAC 181-78A-225. The professional educator standards board will review preparation programs' alignment with any additions to the national standards deemed necessary by the professional educator standards board.

(a) A provider of school psychology programs without approval from the National Association for School Psychology shall provide proof to the professional educator standards board that it will seek such accreditation, unless the program has been specifically approved to operate under alternative national standards per WAC 181-78A-225.

(b) The board will place any existing approved school psychology program not accredited from the National Association of School Psychology into disapproval status on November 1, 2022, unless the pro-

gram provider produces evidence of seeking such accreditation, or unless that program has been specifically approved to operate under alternative national standards per WAC 181-78A-225.

(6) Career and technical education administrator and business and industry route educator preparation programs: The board will annually review data related to the performance of all such programs according to data reporting guidance published by the board.

(a) Annual data analysis: After each annual review period, the board will give career and technical education administrator and business and industry route educator preparation program providers written analysis of the program's annual data submission.

(b) Career and technical education administrator and business and industry route educator preparation program review: The board shall determine the schedule, format, and which forms of documentation and validation shall be used to evaluate programs.

(i) Career and technical education administrator and business and industry route educator preparation program reviews will be conducted at least every five years and not more frequently than every three years.

(ii) At least three months in advance of their scheduled review, career and technical education administrator and business and industry route educator preparation program providers must complete a self-study report related to the components and domain(s) identified in the written analyses of annual data submissions. The board will give providers written timelines and guidance for the submission of these materials.

(iii) Career and technical education administrator and business and industry route educator preparation program providers will submit requested evidence to the staff of the professional educator standards board. Evidence shall include such data and information from the annual data submissions required per WAC 181-78A-235(3) as have been designated by the board as evidence pertinent to the program approval and review processes.

(iv) A review team will review the evidence and request additional information including information provided through documents and interviews with program provider staff or affiliates as needed. One board staff member will serve as chair on the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include one member of the program's professional educator advisory board, one P-12 practitioner with expertise in career and technical education related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members, must be identified individuals with expertise related to the domains of practice and standard components identified in annual written program feedback analyses or in the program's self-study report. One of the two providers with peer representatives on the review team will be scheduled for the subsequent program review.

(v) The review team will use multiple data sources to address the specific goals listed in this section.

(A) The review team and the preparation program provider will use the self-study report to identify program provider's goals and strategies for improvement.

(B) The review team and the preparation program provider will use preparation program data available at the time of review.

(C) The review team and the preparation program provider will use evidence compiled by the provider that demonstrates performance

aligned with all program standards and requirements. Staff of the board will offer program providers guidance regarding the evidence required, how it may be gathered and used, and how it must be submitted.

(vi) The review team will use available evidence to write the review report that will be used by the board in consideration of continued approval status.

(c) Following the review, the review team will provide a report identifying any areas of practice in which program performance is out of alignment with standards and requirements.

(i) The review team's report and other appropriate documentation will be submitted to the provider and the board within six months of the formal review.

(ii) Providers may submit a reply to the review team report within three weeks following receipt of the report. The board shall publish the process for submitting and reviewing the reply.

(iii) In considering the review team's report, the board may request additional information for review, or take action to extend or change the educator preparation program's approval status.

(iv) Based upon the review team's report, the program provider's response, and any subsequent requests for information, as applicable, the board shall take one of the following actions:

(A) The board shall give full approval as described in WAC 181-78A-110 (1)(a).

(B) Limited approval as described in WAC 181-78A-110 (1)(b).

(C) Disapproval as described in WAC 181-78A-110 (1)(c).

(v) A provider may request a hearing in instances where it disagrees with the board's decision to extend or change the program's approval status. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW and will adhere to the process of brief adjudicated hearings. The provider seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035 no more than thirty calendar days from the decision date.

[Statutory Authority: Chapter 28A.410 RCW. WSR 20-16-027, § 181-78A-100, filed 7/24/20, effective 8/24/20; WSR 18-17-089, § 181-78A-100, filed 8/14/18, effective 9/14/18. Statutory Authority: RCW 28A.410.210. WSR 15-12-123, § 181-78A-100, filed 6/3/15, effective 7/4/15; WSR 14-24-004, § 181-78A-100, filed 11/19/14, effective 12/20/14; WSR 14-12-018, § 181-78A-100, filed 5/23/14, effective 6/23/14; WSR 13-20-028, § 181-78A-100, filed 9/23/13, effective 10/24/13; WSR 12-23-023, § 181-78A-100, filed 11/13/12, effective 12/14/12; WSR 12-12-033, § 181-78A-100, filed 5/29/12, effective 6/29/12; WSR 12-02-028, § 181-78A-100, filed 12/28/11, effective 1/28/12; WSR 10-08-017, § 181-78A-100, filed 3/29/10, effective 4/29/10; WSR 08-16-005, § 181-78A-100, filed 7/23/08, effective 8/23/08; WSR 06-24-082, § 181-78A-100, filed 12/5/06, effective 1/5/07; WSR 06-14-010, § 181-78A-100, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-78A-100, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 05-15-052, § 180-78A-100, filed 7/12/05, effective 8/12/05; WSR 05-04-056, § 180-78A-100, filed 1/28/05, effective 2/28/05; WSR 04-21-038, § 180-78A-100, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. WSR 04-04-090, § 180-78A-100, filed 2/3/04, effective 3/5/04; WSR 02-18-037, § 180-78A-100, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.305.130 (1) and (2). WSR 00-09-049, § 180-78A-100, filed 4/14/00, effective 5/15/00. Statu-

tory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-78A-100, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 19-12-005, filed 5/22/19, effective 6/22/19)

WAC 181-78A-105 Procedures for initial approval of an educator preparation program. A prospective provider desiring to establish a preparation program shall comply with the following:

(1) Notification of intent. Prospective providers must submit the appropriate form, published by the professional educator standards board, declaring an intent to apply for approval to offer an educator preparation program or a new educator certification program.

(a) The notification of intent will be posted on the board website as public notice.

(b) The board will contact the prospective provider to begin the preproposal process.

(2) Preproposal. The prospective provider will develop and submit a preproposal that addresses all requirements approved and published by the board including evidence of necessary capacity, resources, and projected sustainability of the program. After board staff verify the preproposal is complete, the preproposal will be brought to the board.

(3) Final proposal. The prospective provider may be approved to develop a final proposal or the preproposal may be denied.

(a) If denied, the provider may resubmit its preproposal informed by suggestions of the board.

(b) If the preproposal is approved by the board, the prospective provider must develop and submit a written plan which addresses all final proposal elements including domains, components, and other program approval requirements contained in chapter 181-78A WAC (~~(181-78A-220 and 181-78A-300 as established in this chapter)~~) and published by the board, including letters of support from partner districts and/or community agencies as evidence of how the program will meet Washington educator workforce needs.

(c) Final proposals submitted by prospective providers of school counselor preparation programs shall include verification of program approval by the council for the accreditation for counseling and related education programs.

(d) Final proposals submitted by prospective providers of school psychologist programs shall include verification of program approval by the National Association for School Psychology.

(4) After reviewing a prospective provider's final program proposal, the board may approve or deny the program approval:

(a) The program may be approved in a specific location(s) for an initial approval period of up to twenty-seven months following the beginning of instruction. The prospective provider must notify the board when instruction has begun. If initial approval is denied, the prospective provider may resubmit a revised plan informed by suggestions given by the board and its staff.

(b) School counselor and school psychologist programs: Approve the program for a time period to align with their respective national association approvals.

(5) Prior to the expiration of initial approval, staff of the board shall conduct a site visit to determine if the program is in

full compliance and performance aligned with the state approval requirements. This includes a review of all applicable indicators and domain components for the type of program.

(a) The twenty-seven-month review is a formal review to evaluate recently approved educator preparation programs and consider them for continued approval.

(i) The formal review will incorporate the following elements:

(A) The board shall determine the schedule for formal reviews and the forms of documentation and validation that will be used for evaluation.

(B) Preparation program providers will submit requested evidence to the staff of the board.

(C) A review team will review the evidence and request additional information including information provided through documents and interviews with program provider staff or affiliates as needed. One board staff member will serve as chair on the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include one member of the programs professional educator advisory board, one P-12 practitioner with expertise related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members must be identified individuals with expertise related to the domains of practice and standard components identified in annual written program feedback analyses.

(ii) The twenty-seven-month review team will use multiple data sources to address the specific goals listed in this section.

(A) The twenty-seven-month review team and the preparation program provider will use annual performance indicator data available at the time of review. Performance of programs on board approved indicators will be used by the review team to write the review report and by the board in consideration of the program's continued approval status.

(B) The twenty-seven-month review team and the preparation program provider will use evidence compiled by the provider that demonstrates performance aligned with all program standards and requirements. Programs' demonstration of upholding board approved standards and requirements will be used by the review team to write the review report and will be used by the board in consideration of continued approval status. Staff of the board will offer program providers guidance regarding the evidence required, how it may be gathered and used, and how it must be submitted.

(C) The twenty-seven-month review team and the preparation program provider will evaluate whether and to what degree the provider of the program under review has implemented the program in alignment with the goals and design for which it was approved. Fidelity to approved program designs and outcomes will be used by the review team to write the review report and by the board in consideration of continued approval status.

(D) The twenty-seven-month review team and the preparation program provider will evaluate whether and to what degree the provider of the program under review has demonstrated continuous improvement in its implementation and outcomes. Providers' ability to demonstrate continuous improvement in processes and outcomes will be used by the review team to write the review report and by the board in consideration of continued approval status.

(iii) Following the review, the review team will provide a report identifying any areas of practice in which program performance is out of alignment with standards and requirements.

(A) The report may also verify or contradict that the approved indicators or thresholds are functioning as intended.

(B) The review team's report and other appropriate documentation will be submitted to the provider and the board within six months of the formal twenty-seven-month review.

(C) Providers may submit a reply to the review team report within three weeks following receipt of the report. The board shall publish the process for submitting and reviewing the reply.

(D) In considering the review team's report, the board may request additional information for review, or take action to extend or change the educator preparation program's approval status.

(iv) Based upon the review team's report, the program provider's response, and any subsequent requests for information, as applicable, the board shall take one of the following actions:

(A) The board shall give full approval as described in WAC 181-78A-110 (1)(a).

(B) Limited approval as described in WAC 181-78A-110 (1)(b).

(C) Disapproval as described in WAC 181-78A-110 (1)(c).

(v) The board's staff may provide technical assistance to providers to help them improve their performance as described in WAC 181-78A-110 (1)(b)(iv).

(b) A provider may request a hearing in instances where it disagrees with the professional educator standards board's decision. This request must be made within twenty days from the decision date. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW. The provider seeking a hearing will provide a written request to the board in accordance with WAC 10-08-035.

[Statutory Authority: Chapter 28A.410 RCW. WSR 19-12-005, § 181-78A-105, filed 5/22/19, effective 6/22/19; WSR 18-17-089, § 181-78A-105, filed 8/14/18, effective 9/14/18. Statutory Authority: RCW 28A.410.210. WSR 12-20-030, § 181-78A-105, filed 9/twenty-seven/12, effective 10/28/12; WSR 11-15-049, § 181-78A-105, filed 7/15/11, effective 8/15/11; WSR 11-01-047, § 181-78A-105, filed 12/7/10, effective 1/7/11; WSR 10-08-015, § 181-78A-105, filed 3/29/10, effective 4/29/10; WSR 09-20-109, § 181-78A-105, filed 10/7/09, effective 11/7/09; WSR 06-24-082, § 181-78A-105, filed 12/5/06, effective 1/5/07; WSR 06-14-010, § 181-78A-105, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-78A-105, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-78A-105, filed 12/23/98, effective 1/23/99.]

PROFESSIONAL ((EDUCATION)) EDUCATOR ADVISORY BOARDS—GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 20-20-092, filed 10/5/20, effective 11/5/20)

WAC 181-78A-205 Required professional (~~(education)~~) educator advisory board. Institutions and organizations seeking approval by the professional educator standards board as an approved preparation program, and in order to maintain such approval status, shall establish a professional (~~(education)~~) educator advisory board (PEAB) in accordance with the following:

(1) The program areas for which an institution or organization may seek approval and maintain an approved preparation program are:

- (a) Teacher.
- (b) Career and technical education business and industry route teacher.
- (c) Administrator.
- (d) Career and technical education (~~(business and industry route)~~) administrator.

- (e) Educational staff associate (~~((ESA))~~), school counselor.
- (f) Educational staff associate, school psychologist.

(2) Professional educator advisory board.

(a) All educator preparation program providers shall establish and maintain a professional educator advisory board to participate in and cooperate with the organization on decisions related to the development, implementation, and revision of preparation program(s).

(b) The professional educator advisory board shall adopt operating procedures and meet at least three times a year.

(c) The professional educator advisory board annually shall review and analyze data for the purposes of determining whether candidates have a positive impact on student learning and providing the institution with recommendations for programmatic change. This data may include, but not be limited to: Student surveys, follow-up studies, employment placement records, student performance portfolios, course evaluations, program review indicators, and summaries of performance on the pedagogy assessment for teacher candidates.

(d) The professional educator advisory board shall make recommendations when appropriate for program changes to the institution which must in turn consider and respond to the recommendations in writing in a timely fashion.

(3) An institution or organization may combine educational staff associate professional (~~(education)~~) educator advisory boards as long as one-half or more of the voting members are appointed by the associations representing the ESA roles involved and are divided equally among those roles.

~~((3))~~ (4) An institution or organization may have separate administrator professional (~~(education)~~) educator advisory boards for each administrator role as long as one-half or more of the voting members are appointed by the association representing the administrator role involved: Each administrator PEAB shall include at least one member appointed by the Association of Washington School Principals (AWSP), one appointed by the Washington Association of School Administrators (WASA), and one appointed by the Washington Federation of Independent Schools (WFIS).

~~((4))~~ (5) The failure of a designated organization, as specified in WAC 181-78A-209, to make appointments to the designated board, or to make such appointments in a timely manner, shall not cause the preparation program to lose its approval status.

[Statutory Authority: Chapter 28A.410 RCW. WSR 20-20-092, § 181-78A-205, filed 10/5/20, effective 11/5/20. Statutory Authority: RCW 28A.410.210. WSR 12-02-028, § 181-78A-205, filed 12/28/11, effective 1/28/12; WSR 11-01-047, § 181-78A-205, filed 12/7/10, effective 1/7/11; WSR 09-20-110, § 181-78A-205, filed 10/7/09, effective 11/7/09; WSR 06-14-010, § 181-78A-205, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-78A-205, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-78A-205, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 20-20-092, filed 10/5/20, effective 11/5/20)

WAC 181-78A-207 Qualification to be appointed to an institution or organization professional ((education)) educator advisory board.

(1) Professional ((education)) educator advisory boards may authorize the appointment of additional representatives from other school districts or other public and private agencies as long as one-half or more of the members of the professional ((education)) educator advisory board consist of representatives who meet the qualifications of this subsection and who are from the role for which the professional ((education)) educator advisory board has responsibility.

(2) If any professional ((education)) educator advisory board receives a written request from other school districts or other public or private agencies for representation on such professional ((education)) educator advisory board, the current members of such professional ((education)) educator advisory board shall vote on such request at the next regular meeting of such board. A program may elect to add private school representatives to a professional ((education)) educator advisory board without adding to the representation from the role for which the professional ((education)) educator advisory board has responsibility if the professional ((education)) educator advisory board authorizes such action by a majority vote.

[Statutory Authority: Chapter 28A.410 RCW. WSR 20-20-092, § 181-78A-207, filed 10/5/20, effective 11/5/20. Statutory Authority: RCW 28A.410.210. WSR 11-01-047, § 181-78A-207, filed 12/7/10, effective 1/7/11; WSR 09-20-110, § 181-78A-207, filed 10/7/09, effective 11/7/09; WSR 07-04-004, § 181-78A-207, filed 1/24/07, effective 2/24/07. WSR 06-02-051, recodified as § 181-78A-207, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-78A-207, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 20-20-092, filed 10/5/20, effective 11/5/20)

WAC 181-78A-209 Professional ((education)) educator advisory boards—Membership. The professional ((education)) educator advisory boards shall at a minimum consist of the following:

(1) **TEACHER.**

(a) One-half or more of the voting members are classroom teachers. All, but one, must be appointed by the president of the Washington Education Association. The remaining teacher must be employed in a state-approved private school and appointed by the Washington Federation of Independent Schools.

(b) At least one (~~(principal)~~) building level leader appointed by the president of the Association of Washington School Principals.

(c) At least one (~~(school administrator)~~) district level leader appointed by the Washington Association of School Administrators.

(d) At least one educational staff associate (~~(school counselor, school psychologist, school social worker, school nurse, school occupational therapist, school physical therapist, or school speech language pathologist or audiologist)~~) appointed by the president of the individual's professional association.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

(f) At programs where career and technical education programs are offered in conjunction with general educator residency certification programs, one career and technical education (~~(director)~~) administrator or career and technical education teacher, with expertise in one of the approved career and technical education programs at the institution or organization, appointed by the Washington Association of Career and Technical Administrators in cooperation with the institution or organization.

(2) **CAREER AND TECHNICAL EDUCATION BUSINESS AND INDUSTRY ROUTE TEACHER.**

(a) One-half or more of the voting members are career and technical education teachers. One-half of these teachers must be recommended by the Washington Association for Career and Technical Education. The remaining teachers must be appointed by the educator preparation program. At least one career and technical education teacher on the advisory board must be prepared through a Washington state business and industry route preparation program.

(b) At least one career and technical education (~~(director)~~) administrator recommended by the Washington Association for Career and Technical Administrators.

(c) At least one secondary (~~(school administrator)~~) building level leader recommended by the Washington Association of Career and Technical Administrators' area group associated with the educator preparation program.

(d) At least one career and technical education career guidance specialist, or one career and technical education occupational information specialist, or one career and technical education counselor.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

(3) **ADMINISTRATOR.**

(a) One-half or more of the voting members are administrators. One-half of these administrators must be appointed by the president of the Washington Association of School Administrators. The remaining administrators shall be appointed by the president of the Association of Washington School Principals except one who shall be employed in an approved private school and appointed by the Washington Federation of Independent Schools.

(b) At least one or more (~~(classroom)~~) teachers appointed by the president of the Washington Education Association.

(c) At least one educational staff associate (~~(school counselor, school psychologist, school social worker, school nurse, school occu-~~

~~pational therapist, school physical therapist, or school speech language pathologist or audiologist))~~ appointed by the president of the individual's professional association.

(d) At least one institution or organization representative who may serve in a voting or nonvoting role.

(4) ~~((CTE))~~ **CAREER AND TECHNICAL EDUCATION ADMINISTRATOR.**

(a) One-half or more of the voting members are certificated career and technical education administrators. One-half of these administrators must be recommended by the Washington Association of Career and Technical Administrators' area group associated with the educator preparation program. The remaining administrators must be appointed by the educator preparation program.

(b) At least one or more career and technical education teacher recommended by the Washington Association for Career and Technical Education.

(c) At least one secondary ~~((school administrator))~~ building level leader recommended by the Washington Association of Career and Technical Administrators' area group associated with the program.

(d) At least one career and technical education career guidance specialist, or one career and technical education occupational information specialist, or one career and technical education counselor appointed by the educator preparation program.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

(5) **SCHOOL COUNSELOR.**

(a) At least one-half of the voting members are school counselors appointed by the president of the Washington School Counselors Association.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one ~~((principal))~~ building level leader appointed by the Association of Washington School Principals.

(d) At least one ~~((administrator))~~ district level leader appointed by the Washington Association of School Administrators.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

(6) **SCHOOL PSYCHOLOGIST.**

(a) At least one-half of the voting members are school psychologists appointed by the president of the Washington State Association of School Psychologists.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one ~~((principal))~~ building level leader appointed by the Association of Washington School Principals.

(d) At least one ~~((administrator))~~ district level leader appointed by the Washington Association of School Administrators.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

(7) **MEMBERSHIP APPOINTMENTS.** Applicable to all professional association appointments, if the professional association does not respond to the program's request within sixty days of the receipt of the request, a program may appoint the representative of its choice in the role for which a representative is being sought. If the program makes an appointment, it must notify the appropriate professional association within one week that the appointment has been made. If an association is unable to appoint a representative due to the geographic restric-

tion of possible candidates, the PEAB will appoint an alternate to represent that association with their consent.

[Statutory Authority: Chapter 28A.410 RCW. WSR 20-20-092, § 181-78A-209, filed 10/5/20, effective 11/5/20. Statutory Authority: RCW 28A.410.210. WSR 12-02-028, § 181-78A-209, filed 12/28/11, effective 1/28/12; WSR 11-01-047, § 181-78A-209, filed 12/7/10, effective 1/7/11; WSR 09-20-110, § 181-78A-209, filed 10/7/09, effective 11/7/09; WSR 07-04-004, § 181-78A-209, filed 1/24/07, effective 2/24/07. WSR 06-02-051, recodified as § 181-78A-209, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). WSR 02-04-018, § 180-78A-209, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2). WSR 01-03-151, § 180-78A-209, filed 1/24/01, effective 2/24/01; WSR 00-09-046, § 180-78A-209, filed 4/14/00, effective 5/15/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-78A-209, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-78A-215 Substitute pay for members of professional ((education)) educator advisory boards. Service on professional ((education)) educator advisory boards by certificated employees is deemed by the professional educator standards board as a committee formed for the purpose of furthering education within the state. Accordingly, the superintendent of public instruction, in conformance with the provisions of RCW 28A.300.035, shall make payments to school districts for needed substitutes.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-78A-215, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-78A-215, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-78A-215, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 18-17-089, filed 8/14/18, effective 9/14/18)

WAC 181-78A-220 Program approval standards for approved preparation programs. The board shall adopt and revise program standards that describe domains of practice, program components, and other expectations for teacher and principal preparation programs to align and maintain currency with recognized national association standards for the specific certificate role. The board will use national standards as guidance for determining domains, components, and indicators used for program review.

(1) General domain outcome expectations for teacher, principal, career and technical education administrator, superintendent, and program administrator preparation programs are as follows:

(a) Candidates and cohorts. Providers of educator preparation programs recruit, select, and prepare diverse cohorts of candidates with potential to be outstanding educators.

(i) Providers conduct strategic and ongoing outreach to identify, recruit, admit, support, and transition promising educator candidates.

(ii) Providers of preparation programs use strategies to recruit and prepare a greater number of candidates from underrepresented groups including, but not limited to, candidates of color in effort to prepare an educator workforce that mirrors the characteristics of the student population in Washington state public schools.

(iii) Providers set, publish and uphold admission standards to ensure that candidates and cohorts are academically capable and prepared to succeed in educator preparation programs.

(b) Knowledge, skills and cultural responsiveness. Providers prepare candidates who demonstrate the knowledge, skills and cultural responsiveness required for the particular certificate and areas of endorsement, which reflect the state's approved standards.

(i) Providers demonstrate effective, culturally responsive pedagogy using multiple instructional methods, formats, and assessments.

(ii) Providers ensure that completers demonstrate the necessary subject matter knowledge for success as educators in schools.

(iii) Providers ensure that candidates demonstrate pedagogical knowledge and skill relative to the ((national)) professional standards adopted by the board for the role for which candidates are being prepared.

(iv) Providers ensure that candidates are well prepared to exhibit the knowledge and skills of culturally responsive educators.

(v) Providers ~~((require candidates to demonstrate knowledge of teacher evaluation research and Washington's evaluation requirements))~~ ensure that teacher candidates engage with the since time immemorial curriculum focused on history, culture, and government of American Indian peoples as prescribed in RCW 28B.10.710 and WAC 181-78A-232.

(c) Novice practitioners. Providers prepare candidates who are role ready.

(i) Providers prepare candidates who are ready to engage effectively in their role and context upon completion of educator preparation programs.

(ii) Providers prepare candidates to develop reflective, collaborative, and professional growth-centered practices through regular evaluation of the effects of their teaching through feedback and reflection.

(iii) Providers prepare candidates for their role in directing, supervising, and evaluating paraeducators.

(iv) Providers require candidates to demonstrate knowledge of teacher evaluation research and Washington's evaluation requirements.

(d) State and local workforce needs. Providers contribute positively to state and local educator workforce needs.

(i) Providers partner with local schools to assess and respond to educator workforce, student learning, and educator professional learning needs.

(ii) Providers use preparation program and workforce data in cooperation with professional educator advisory boards to assess and respond to local and state workforce needs.

(iii) Providers of teacher educator preparation programs prepare and recommend increasing numbers of candidates in endorsement areas identified by the professional educator standards board workforce priorities.

(e) Data systems. Providers maintain data systems that are sufficient to direct program decision making, inform state-level priorities, and report to the professional educator standards board.

(i) Providers develop and maintain effective data systems that are sufficient for program growth, evaluation, and mandated reporting.

(ii) Providers utilize secure data practices for storing, monitoring, reporting, and using data for program improvement.

(iii) Providers produce and utilize data reports in accordance with data and reporting guidance published by the professional educator standards board.

(f) Field experience and clinical practice. Providers offer field-based learning experiences and formalized clinical practice experiences for candidates to develop and demonstrate the knowledge and skills needed for their role.

(i) Providers establish and maintain field placement practices, relationships, and agreements with all school districts in which candidates are placed for field experiences leading to certification or endorsement per WAC 181-78A-125.

(ii) Providers ensure that candidates integrate knowledge and skills developed through field experiences with the content of programs' course work.

(iii) Providers offer field experiences that are in accordance with chapter 181-78A WAC (~~(181-78A-300)~~) and the board approved candidate assessment requirements.

(iv) Providers ensure that candidates participate in field experiences in school settings with students and teachers who differ from themselves in race, ethnicity, home language, socio-economic status, or local population density.

(g) Program resources and governance. Providers ensure that programs have adequate resources, facilities, and governance structures to enable effective administration and fiscal sustainability.

(i) Providers ensure that programs utilize a separate administrative unit responsible for the composition and organization of the preparation program.

(ii) Providers ensure the program has adequate personnel to promote teaching and learning.

(iii) Providers ensure the program has adequate facilities and resources to promote teaching and learning.

(2) General knowledge and skills standards are as follows:

(a) Teacher: The board adopts the national knowledge and skills competencies most recently published by the Council of Chief State School Officers known as the *Interstate Teacher Assessment and Support Consortium Model Core Teaching Standards and Learning Progressions for Teachers with any additions deemed necessary by the professional educator standards board*.

Endorsement competencies will be aligned with the national standards of each content area/specialized professional organization, when such a national standard is available. Currently approved endorsement standards and competencies will be published on the board website.

(b) Principal: The board adopts the national knowledge and skills competencies most recently published by the National Policy Board for Educational Administration known as the *National Educational Leadership Preparation (NELP) Standards - Building Level* (~~(published in 2018, or as subsequently revised. Until the publication of the National Educational Leadership Preparation (NELP) Standards - Building Level published in 2018, providers of principal preparation programs will~~

~~use Standard 5 as published)) with any additions deemed necessary by the professional educator standards board.~~

~~(c) Superintendent ((and program administrator)): The board adopts the national knowledge and skills competencies published by the University Council of Educational Administration known as the *National Educational Leadership Preparation (NELP) Standards - District Level* published in 2018, or as subsequently revised. Until the publication of the *National Educational Leadership Preparation (NELP) Standards - District Level* ((published in 2018, providers of superintendent and program administrator programs will use Standard 5)) with any additions deemed necessary by the professional educator standards board.~~

~~(d) Program administrator: Provider may select national knowledge and skills competencies published by the University Council of Educational Administration known as the *National Educational Leadership Preparation (NELP) Standards - Building Level* or those known as the *National Educational Leadership Preparation (NELP) Standards - District Level* with any additions deemed necessary by the professional educator standards board.~~

~~(e) School counselor: The board adopts the national knowledge and skills competencies most recently published by the Council for Accreditation of Counseling and Related Educational Programs known as the CACREP standards with any additions deemed necessary by the professional educator standards board.~~

~~(f) School psychologist: The board adopts the national knowledge and skills competencies most recently published by the National Association for School Psychologists known as the National Association for School Psychologists standards for graduate preparation of school psychologists with any additions deemed necessary by the professional educator standards board.~~

~~(g) Standards for career and technical education teacher preparation programs resulting in an initial certificate area, as published by the professional educator standards board and as described in WAC 181-77A-165.~~

~~(h) Standards for career and technical education administrator preparation programs are as published by the professional educator standards board.~~

[Statutory Authority: Chapter 28A.410 RCW. WSR 18-17-089, § 181-78A-220, filed 8/14/18, effective 9/14/18. Statutory Authority: RCW 28A.410.210. WSR 13-03-155, § 181-78A-220, filed 1/23/13, effective 2/23/13; WSR 11-01-047, § 181-78A-220, filed 12/7/10, effective 1/7/11; WSR 06-14-010, § 181-78A-220, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-78A-220, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) through (4). WSR 02-04-014, § 180-78A-220, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). WSR 99-23-023, § 180-78A-220, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-78A-220, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 19-15-144, filed 7/24/19, effective 8/24/19)

WAC 181-78A-231 Teacher, principal, career and technical education ((director)) administrator, superintendent, and program administrator—Specific program approval domain standard—Candidates and cohorts. Candidates and cohorts. Providers of educator preparation programs recruit, select, support, and prepare diverse cohorts of candidates with potential to be outstanding educators.

(1) Providers conduct strategic and ongoing outreach to identify, recruit, admit, support, and transition promising educator candidates.

(a) Create, foster, and utilize effective partnerships to promote careers in teaching and educational leadership.

(b) Implement a targeted, data-informed outreach strategy that includes robust individualized enrollment support.

(c) Establish and monitor attributes and dispositions beyond academic ability that candidates must demonstrate at admissions and during the program.

(d) Providers of teacher preparation programs develop and utilize candidate recruitment strategies that address state, district, and workforce shortage areas.

(e) Providers of career and technical education business and industry route programs establish and expand meaningful and effective recruitment and admissions partnerships with local school districts.

(2) Providers of educator preparation programs use strategies to recruit, admit, and prepare a greater number of candidates from underrepresented groups including, but not limited to, candidates of color in effort to prepare an educator workforce that mirrors the characteristics of the student population in Washington state public schools.

(a) Demonstrate strategic outreach that is highly accessible and responsive to local communities of color.

(b) Gather and use data to assess strategic outreach to improve responsiveness and effectiveness.

(c) Identify needs and provide supports for enrollment and success in educator preparation programs for local communities of color and candidates representing linguistic and ability diversity.

(3) Providers set, publish, and uphold program admission standards to ensure that all educator candidates and cohorts are academically capable and technically prepared to succeed in educator preparation programs.

(a) Articulate clear criteria and requirements for program entry requirements to applicants.

(b) Articulate clear expectations for program completion to applicants and candidates.

(c) Inform, advise, and support applicants on assessment requirements, timelines, occupational experience requirements, and passing thresholds for board approved content and pedagogy assessments.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-144, § 181-78A-231, filed 7/24/19, effective 8/24/19.]

AMENDATORY SECTION (Amending WSR 19-24-103, filed 12/4/19, effective 1/4/20)

WAC 181-78A-232 Teacher, principal, career and technical education ((director)) administrator, superintendent, and program administrator—Specific program approval domain standard—Candidate knowledge, skills, and cultural responsiveness. Knowledge, skills, and cultural responsiveness. Providers prepare candidates who demonstrate the knowledge, skills and cultural responsiveness required for the particular certificate and areas of endorsement, which reflect the state's approved standards.

(1) Providers demonstrate effective, culturally responsive pedagogy using multiple instructional methods, formats, and assessments.

(a) Qualified faculty use multiple instructional strategies, pedagogies, and assessments to address ((students')) candidates' academic language ability levels and cultural and linguistic backgrounds.

(b) Providers create opportunities for faculty members and program personnel to pursue, apply, and practice ongoing professional learning to improve their knowledge, skill, effectiveness, and cultural responsiveness.

(c) Faculty within the program and the unit collaborate among one another, with content specialists, P-12 schools, members of the broader professional community, and diverse members of local communities for continuous program improvement.

(d) Faculty members and program leaders systematically and comprehensively evaluate faculty's effectiveness in teaching and learning.

(2) Providers ensure that completers demonstrate the necessary subject matter knowledge for success as educators in schools.

(a) Candidates demonstrate knowledge and competence relative to the ((national)) standards related to the role((, which were)) adopted by the board. Providers ensure that candidates in teacher preparation programs demonstrate the most recently published InTASC Standards, candidates in principal programs demonstrate the most recently published NELP - Building Level Standards, and candidates in superintendent programs demonstrate the most recently published NELP - District Level Standards, and candidates in career and technical education educator preparation programs demonstrate and document the career and technical education standards approved by the professional educator standards board.

(b) Teacher candidates must take a board approved basic skills assessment prior to program ((admission and take an endorsement assessment prior to beginning student teaching. Endorsement assessments are not required for teacher candidates in career and technical education business and industry route programs)). A provider of a teacher preparation program must assure that all candidates entering the program have successfully met the basic skills requirement under chapter 181-01 WAC at the time of admission. The provider must collect and hold evidence of candidates meeting this requirement.

(c) Teacher candidates must take a content knowledge assessment prior to beginning student teaching. The provider must collect and hold evidence of candidates meeting this requirement. Teacher candidates apply content knowledge as reflected in board approved endorsement ((standards)) competencies. Endorsement assessments are not required for teacher candidates in career and technical education business and industry route programs.

~~(d) ((Teacher candidates engage with the since time immemorial curriculum focused on history, culture, and government of American Indian peoples as prescribed in WAC 181-78A-300.~~

~~(e-))~~ Providers ensure that educator candidates complete a course on issues of abuse as required by RCW 28A.410.035 and WAC 181-79A-030.

(e) Under RCW 28A.410.040, a teacher candidate whose only baccalaureate degree is in early childhood education, elementary education, or special education must have completed thirty quarter credits, or the equivalent in semester credits or continuing education credit hours, in one academic field in an endorsement area under WAC 181-82A-202.

(f) Candidates for an initial certificate in a career and technical education residency teacher preparation program must complete a minimum of forty-five quarter credits, or the equivalent in semester credits or continuing education credit hours, in the specific career and technical education area for which certification is sought.

(3) Providers ensure that candidates demonstrate pedagogical knowledge and skill relative to the ((national)) professional standards adopted by the board for the role for which candidates are being prepared.

(a) Candidates demonstrate knowledge and competence relative to the ((national)) standards related to the role, which were adopted by the board. Providers ensure that candidates in teacher preparation programs demonstrate most recently published InTASC Standards, candidates in principal programs demonstrate most recently published NELP - Building Level Standards, candidates in superintendent programs demonstrate most recently published NELP - District Level Standards, and candidates in career and technical education educator preparation programs demonstrate and document the career and technical education standards approved by the professional educator standards board.

(b) Faculty and mentors provide regular and ongoing feedback to candidates regarding field based performance that is actionable and leads to improvement in candidates' practice.

(c) Providers demonstrate through structured observation, discussion, surveys, and/or artifacts that program completers effectively apply the professional knowledge, skills, and dispositions that the preparation program was designed to achieve.

(d) Providers ensure that teacher candidates achieve passing scores on the teacher performance assessment, also known as the pedagogy assessment, approved by the board. Teacher preparation program providers shall require that each candidate engage in a performance assessment process approved by the board. The teacher performance assessment is not required for teacher candidates in career and technical education business and industry route programs. Candidates who participated in the teacher performance assessment field trials or took the pedagogy assessment prior to January 1, 2014, may be recommended for certification by the preparation program without a passing score.

~~(e) ((Providers ensure that all educator candidates demonstrate knowledge of the paraeducator standards of practice, as published by the paraeducator board.~~

~~(f-))~~ Providers of career and technical educator preparation programs provide candidates all necessary guidance to document, demonstrate, and submit for approval the required hours of occupational experience.

~~((g) Providers))~~ (f) In order to ensure that teacher and principal candidates can recognize signs of emotional or behavioral distress

in students and appropriately refer students for assistance and support (~~(. The guidance provided to candidates must include the social-emotional learning standards, benchmarks, and)~~), teacher and principal preparation program providers must incorporate the social emotional standards and benchmarks, and must provide guidance to candidates on related competencies described in RCW 28A.410.270.

(4) Providers ensure that candidates are well prepared to exhibit the knowledge and skills of culturally responsive educators.

(a) Providers offer all candidates meaningful, reflective opportunities to interact with racially and culturally diverse colleagues, faculty, P-12 practitioners, and P-12 students and families.

(b) Providers prepare candidates to adapt their practices based on students' prior experiences, cultural knowledge, and frames of reference to make learning encounters more relevant and effective.

(c) Providers ensure course work explicitly focuses on cultural responsiveness and integrates components of culturally responsive education within and throughout all courses.

(d) Faculty explicitly model equity pedagogy in course work and practice in ways that enable candidates to integrate their own cultural and linguistic backgrounds into classroom activities.

(5) Teacher candidates engage with the since time immemorial curriculum focused on history, culture, and government of American Indian peoples as prescribed in RCW 28B.10.710.

(a) There shall be a one quarter or semester course, or the equivalent in continuing education credit hours, in either Washington state history and government, or Pacific Northwest history and government in the curriculum of all teacher preparation programs.

(b) No person shall be completed from any of said programs without completing said course of study, unless otherwise determined by the Washington professional educator standards board.

(c) Any course in Washington state or Pacific Northwest history and government used to fulfill the requirement of this section shall include information on the culture, history, and government of the American Indian peoples who were the first human inhabitants of the state and the region.

(d) Teacher preparation program providers shall ensure that programs meet the requirements of this section by integrating the curriculum developed and made available free of charge by the office of the superintendent of public instruction into existing programs or courses and may modify that curriculum in order to incorporate elements that have a regionally specific focus.

[Statutory Authority: Chapter 28A.410 RCW. WSR 19-24-103, § 181-78A-232, filed 12/4/19, effective 1/4/20. Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-144, § 181-78A-232, filed 7/24/19, effective 8/24/19.]

AMENDATORY SECTION (Amending WSR 19-15-144, filed 7/24/19, effective 8/24/19)

WAC 181-78A-233 Teacher, principal, career and technical education program ((directors)) administrator, superintendent, and program administrator—Specific program approval domain standard—Novice prac-

tioners. Novice practitioners. Providers prepare candidates who are role ready.

(1) Providers prepare candidates who are ready to engage effectively in their role and context upon completion of educator preparation programs.

(a) The provider demonstrates that program completers perceive their preparation as relevant to the responsibilities they confront on the job, and that the preparation was effective.

(b) Providers demonstrate that completers effectively apply the professional knowledge, skills, dispositions, and technical proficiency that the preparation experiences were designed to achieve.

(c) Faculty and supervisors contextualize educators' practice within contemporary socio-political context and within the administrative regulations in schools and districts.

(d) Inform and orient candidates to Washington state processes of certification, licensure, endorsements and ongoing professional learning opportunities and requirements as they apply to the role for which the candidate is being certified.

(2) Providers prepare candidates to develop reflective, collaborative, and professional growth-centered practices through regular evaluation of the effects of their practice through feedback and reflection.

(a) Prepare educator(~~s~~) candidates to understand and demonstrate achievement and improvement in their practice.

(b) Providers prepare candidates to seek new learning to remain current in subject area(s), educational theories, practices, research, and ethical practice.

(c) Ensure that all (~~teacher education~~) candidates who complete the program exit the program with a professional growth plan according to the guidance provided by the professional educator standards board.

(3) Providers prepare candidates for their role in directing, supervising, and evaluating paraeducators.

(a) Prepare teacher candidates to direct paraeducators working with students in the classroom.

(b) Prepare administrator candidates to supervise and evaluate paraeducators in schools.

(c) Providers ensure that all educator candidates demonstrate knowledge of the paraeducator standards of practice, as published by the paraeducator board.

(4) Providers require candidates to demonstrate knowledge of teacher evaluation research and Washington's evaluation requirements.

(a) Providers ensure educator candidates examine Washington's evaluation requirements specific to their role, including criteria, four-tiered performance rating system, student growth goals, and the preferred instructional frameworks used to describe the evaluation criteria.

(b) Providers ensure educator candidates demonstrate knowledge and skill in self-assessment, goal setting, and reflective practice.

(c) Providers of (~~principal and superintendent~~) administrator programs ensure candidates examine and practice classroom observation skills that recognize and limit bias and promote rater agreement on the four-tiered system.

(d) Providers of (~~principal and superintendent~~) administrator programs ensure candidates demonstrate knowledge and skill using student growth data and multiple measures of performance for use in evaluations.

(e) Providers of (~~(principal and superintendent)~~) administrator programs ensure candidates demonstrate knowledge and skill conducting evaluation conferences and developing teacher and principal support plans resulting from evaluations.

(f) Providers of (~~(principal and superintendent)~~) administrator programs ensure candidates demonstrate knowledge and skill in the use of an online tool to manage the collection of observation notes, teacher and principal submitted materials, and other information related to the conduct of the evaluation.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-144, § 181-78A-233, filed 7/24/19, effective 8/24/19.]

AMENDATORY SECTION (Amending WSR 19-15-144, filed 7/24/19, effective 8/24/19)

WAC 181-78A-234 Teacher, principal, career and technical education program (~~(director)~~) administrator, superintendent, and program administrator—Specific program approval domain standard—State and local workforce needs. State and local workforce needs. Providers contribute positively to state and local educator workforce needs.

(1) Providers partner with local schools, districts, and communities to assess and respond to educator workforce, student learning, and educator professional learning needs.

(a) Establish and develop partnerships (e.g., schools, districts, community colleges, workforce boards, etc.) to understand educator workforce surplus and shortages.

(b) Maintain and use partnerships to gather anecdotes, contacts, and data that identify and describe local workforce needs.

(2) Providers use preparation program and workforce data in cooperation with professional educator advisory boards to assess and respond to local and state workforce needs.

(a) Providers use local and state workforce data to identify and monitor state and local educator and workforce shortages across local districts, industries, and content areas relevant for the roles for which the program recommends certification.

(b) Analyze enrollment, preparation process, and program outcomes data to understand programs' process and performance relative to the local and state educator and industry workforce needs relevant for the roles for which the program recommends certification.

(c) Present to professional educator advisory boards workforce data and program analyses to develop program goals and strategies that can be enacted to meaningfully address state and local workforce needs.

(d) Share among faculty, staff, and professional educator advisory boards program's current practice and effectiveness addressing state and local workforce needs.

(3) Providers of teacher educator preparation programs prepare and recommend increasing numbers of candidates in endorsement and areas identified by the board as workforce priorities.

~~(a) (Share among faculty, staff, and professional educator advisory boards program's current practice and effectiveness addressing state and local workforce needs.)~~

~~(b)~~) Recruit and prepare candidates for content areas in response to local and state workforce needs.

~~((e))~~ (b) Meet the content area needs identified by workforce data of the state and the region.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-144, § 181-78A-234, filed 7/24/19, effective 8/24/19.]

AMENDATORY SECTION (Amending WSR 19-15-144, filed 7/24/19, effective 8/24/19)

WAC 181-78A-235 Teacher, principal, career and technical education (~~(program director)~~) administrator, superintendent, and program administrator—Specific program approval domain standard—Data systems. Data systems. Providers maintain data systems that are sufficient to evaluate program performance, direct program decision making, inform state-level priorities, and report to the board.

(1) Providers develop and maintain effective data systems that are sufficient for program growth, evaluation, and mandated reporting.

(a) Maintain a data infrastructure that enables storage, tracking, and reporting functions to meet annual data submission requirements and assess program design and outcomes in alignment with state standards.

(b) Collect, store, and report data according to the data manual and report guidance published by the professional educator standards board.

(c) Systematically and comprehensively gather data and evidence on recruitment, retention, candidate learning, and program operations.

(d) Include in data and assessment systems processes and safeguards that ensure fair and unbiased assessment of candidates.

(2) Providers utilize secure data practices for storing, monitoring, reporting, and using data for program improvement.

(a) Develop, publish, and maintain program-specific standards for data security, access, and governance.

(b) The professional educator advisory board annually reviews and analyzes data for the purposes of determining whether candidates have a positive impact on student learning and report to the program provider recommendations for programmatic change.

(c) Program leaders aggregate program and candidate data over time and incorporate perspectives of faculty, data administrators, professional educator advisory boards, candidates, and district and school P-12 partners to inform program decision making.

(d) Program providers consider and respond in writing to recommendations for program change from the members of the professional education advisory board.

(3) Providers produce and utilize data reports in accordance with data manual and reporting guidance published by the board.

(a) Faculty, administrators, and professional educator advisory board members collaborate for program review and improvement.

(b) Data administrators submit annual data according to data manual, schedule, and reporting guidance published by the board.

(c) Gather and submit additional program and candidate data as requested by the board as needed to complete all aspects of the program review process.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-144, § 181-78A-235, filed 7/24/19, effective 8/24/19.]

AMENDATORY SECTION (Amending WSR 20-20-091, filed 10/5/20, effective 11/5/20)

WAC 181-78A-236 Teacher, principal, career and technical education ((program director)) administrator, superintendent, and program administrator—Specific program approval domain standard—Field experience and clinical practice. Field experience and clinical practice. Providers offer field-based learning experiences and formalized clinical practice experiences for candidates to develop and demonstrate the knowledge and skills needed for their role.

(1) Providers establish and maintain field placement practices, relationships, and agreements with all school districts in which candidates are placed for field experiences leading to certification or endorsement ((per)) under WAC 181-78A-125 ((and 181-78A-300)).

(a) The program provider and school partners cooperatively design, implement, and evaluate field experiences and clinical practices conforming to board standards and requirements for the role.

(b) Clinical practice for teacher candidates in programs approved to offer traditional routes to teacher certification must consist of no less than four hundred fifty hours in a classroom setting, with a qualifying mentor teacher. Clinical practice for teacher candidates in programs approved to offer alternative routes to certification must consist of no less than five hundred forty hours in a classroom setting with a qualifying mentor.

(c) Principal candidates complete an internship for a full school year, consisting of at least five hundred forty hours, half of which must be during school hours when students and/or staff are present. Interning candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-220 and 181-78A-232 ((and meets, at minimum, the standards-based benchmarks approved and published by the board)).

(d) Superintendent candidates must complete an internship of at least three hundred sixty hours. Interning candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-220 and 181-78A-232.

(e) Candidates in career and technical education teacher preparation programs as described in WAC 181-77-031 must complete a student teaching experience of at least four hundred fifty hours. Candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in the career and technical education standards approved by the professional educator standards board.

(f) Candidates in career and technical education administrator and business and industry route programs must complete a practicum of at least sixty hours. Candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in the career and technical education standards approved by the professional educator standards board.

(g) Providers articulate in writing clear entry and exit criteria as well as a process for mitigating concerns during clinical practice for candidates, school leader(s), and the mentor.

(2) Providers ensure that candidates integrate knowledge and skills developed through field and industry experiences with the content of programs' course work.

(a) Providers offer field experiences in which teacher and principal candidates plan, practice, discuss, and reflect upon methods of instruction and differentiation, and all educator candidates demonstrate that they have the appropriate, specific relevant skills pursuant to WAC 181-78A-220(~~(r)~~) and 181-78A-232(~~(, and 181-78A-300)~~) to be effective in the role.

(b) Integrate assignments, assessments, and actionable feedback throughout candidates' field experiences.

(c) Provide faculty supervision, including on-site visits, on an ongoing basis.

(d) Identify and recruit mentors for candidates who are educational leaders collaboratively with the partner school(s) or district(s).

(e) Ensure that candidates' mentors are fully certificated school personnel and have a minimum of three years of professional experience in the role they are supervising.

(f) Mentors and school leaders are provided with a set of internship expectations and receive, or provide evidence of having received, training and experience mentoring adult learners and culturally responsive teaching and learning.

(g) Effectiveness of mentor preparation and communication are reviewed annually by program faculty.

(3) Providers offer field experiences (~~(and related assessment requirements)~~) in accordance with chapter 181-78A WAC (~~(181-78A-300)~~) and the board approved candidate assessment requirements.

(a) Ensure that educator candidates are placed in settings where they can be evaluated and given actionable feedback.

(b) Ensure that educator candidates are fingerprinted and have completed required character clearance prior to placement in field experience settings.

~~((c) Ensure that teacher candidates have completed knowledge and skills assessments requirements in accordance with this section and WAC 181-78A-300(2) prior to beginning student teaching.))~~

(4) Providers ensure that candidates participate in field experiences in school settings with students and teachers who differ from themselves in race, ethnicity, home language, socio-economic status or local population density.

(a) Field experiences provide opportunities to work in communities or with student populations with backgrounds dissimilar to the background of the candidate.

(b) Course assignments and discussions offer candidates opportunities to reflect upon interactions with diverse populations and communities in order to integrate professional growth in cultural responsiveness as a habit of practice.

(c) Candidates have opportunities to design, implement and receive feedback on cultural responsiveness in lessons, assignments, and activities.

[Statutory Authority: Chapter 28A.410 RCW. WSR 20-20-091, § 181-78A-236, filed 10/5/20, effective 11/5/20. Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-144, § 181-78A-236, filed 7/24/19, effective 8/24/19.]

AMENDATORY SECTION (Amending WSR 19-15-144, filed 7/24/19, effective 8/24/19)

WAC 181-78A-237 Teacher, principal, career and technical education ((program director)) administrator, superintendent, and program administrator—Specific program approval domain standard—Program resources and governance. Program resources and governance. Providers ensure that programs have adequate resources, facilities, and governance structures to enable effective administration and fiscal sustainability.

(1) Providers ensure that programs utilize a separate administrative unit responsible for the composition and organization of the preparation program.

(a) An officially designated administrator is responsible for the composition and organization of the preparation program.

(b) Budgetary allocations are sufficient for the program to assure that candidates meet standards and requirements of the board.

(2) Providers ensure the program has adequate personnel to promote teaching and learning.

(a) Workload policies allow program personnel to effectively perform their assigned responsibilities within the program.

(b) Specific program personnel are assigned the responsibility of advising applicants for certification and endorsements and for maintaining certification records.

(c) The program has adequate field supervisors and other support personnel.

(3) Providers ensure the program has adequate facilities and resources to promote teaching and learning.

(a) The program has the necessary classrooms, lab space, office space, and/or other facilities.

(b) The program has technology, library, curricular, and electronic information resources.

(c) The facilities support faculty and candidate use of technology.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-144, § 181-78A-237, filed 7/24/19, effective 8/24/19.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 181-78A-210 Joint professional education advisory board.

WAC 181-78A-300 Educator preparation program provider requirements.

OTS-2822.1

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-79A-030 Definitions. The following definitions shall apply to terms used in this chapter:

(1) The terms, "program approval," "endorsement," and "interstate compact," as defined in WAC 181-78A-010 shall apply to the provisions of this chapter.

(2) "Certificate" means the license issued by the superintendent of public instruction to teachers, administrators, and educational staff associates verifying that the individual has met the requirements set forth in this chapter.

(3) "Certificate renewal" means the process whereby the validity of a certificate, subject to expiration, is extended.

(4) "Certificate reinstatement" means the process whereby the validity of an expired certificate is regained.

(5) "Lapsed certificate" means a residency certificate that is subject to the timelines and renewal described under WAC 181-79A-251.

(6) "Expired certificate" means a teacher certificate that can only be reinstated under WAC 181-79A-251.

(7) "Classroom teaching" means instructing pupils in an instructional setting.

(8) "Approved baccalaureate degree" for the purpose of this chapter, means a baccalaureate from an accredited college or university in any of the subject areas of the endorsement listed in chapter 181-82 WAC as now or hereafter amended: Provided, That if a candidate is accepted into a program in Washington state on or before August 31, 2000, and completes the program on or before August 31, 2003, in accordance with WAC 181-79A-299, the candidate may hold a baccalaureate degree in any of the subject areas of the endorsements listed in WAC 181-79A-302. Such degrees shall require the completion of at least forty-five quarter hours (thirty semester hours) of course work in the subject area: Provided, That a candidate who holds a baccalaureate degree in another academic field will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed the required forty-five quarter or thirty semester hours of course work in one of the subject areas of the endorsements listed in chapter 181-82 WAC (~~(: Provided further, That a candidate who holds a baccalaureate degree in early childhood education, elementary education, or special education will not be required to obtain a second baccalaureate degree if the candidate provides evidence to the superintendent of public instruction that he or she has completed thirty quarter or twenty semester credit hours in one academic field in an approved endorsement area pursuant to WAC 181-82A-202)~~).

(9) "Issues of abuse course work requirement" means completion of course work or an in-service program on issues of abuse. The content shall discuss the identification of physical, emotional, sexual, and substance abuse; commercial sexual abuse of a minor, as defined in RCW 9.68A.100; sexual exploitation of a minor as defined in RCW 9.68A.040; information on the impact of abuse on the behavior and learning abilities of students; discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are victims of abuse; and methods for teaching students about abuse of all types and their prevention. Additionally, content areas identified by the legislature in RCW 28A.410.035 shall be required in the issues of abuse course, including knowledge and skill standards pertaining to recogni-

tion, initial screening and response to emotional or behavioral distress in students including, but not limited to, indicators of possible substance abuse, violence and youth suicide.

(10) "Approved master's degree" for the purpose of this chapter, means a master's or (~~doctorate~~) higher degree from an accredited college or university.

(11) "Credit hour(s)" means credit (normally 100 level or above) awarded by an accredited institution of higher education.

(12) "Previous standards" means a certification system in place prior to a revision in rules that results in changed names and/or validity periods for the certificates issued.

(13) "Application for certification" means an application for a certificate or endorsement that includes a signed affidavit (as specified in WAC 181-79A-157) by the applicant. Such application shall be considered valid for two years from the date of receipt by the superintendent of public instruction, or its designee.

(14) "A positive impact on student learning" means that a teacher through instruction and assessment has been able to document students' increased knowledge and/or demonstration of a skill or skills related to the state goals and/or essential academic learning requirements (~~Provided, That~~). Teachers employed by private schools who are candidates for the professional teaching certificate shall document students' increased knowledge and/or demonstration of a skill or skills related to either:

(a) The state goals or essential academic learning requirements; or

(b) Such alternative learning goals as the private school has established.

(15) "Professional certificate support provider" means any organization or institution operating training or consulting services as a public entity or private company holding an appropriate business license.

(16) "Approved private school" means any organization of institution providing educational services to children including, but not limited to, approved private schools, state institutions, juvenile institutions, nonpublic agencies providing special education services, development centers, and bureau of Indian affairs schools.

(17) "College" or "university" means any accredited institution as defined in WAC 250-61-050.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-143, § 181-79A-030, filed 7/24/19, effective 8/24/19. Statutory Authority: RCW 28A.410.220. WSR 19-07-010, § 181-79A-030, filed 3/7/19, effective 4/7/19; WSR 18-08-064, § 181-79A-030, filed 4/2/18, effective 5/3/18. Statutory Authority: RCW 28A.410.210. WSR 14-24-057, § 181-79A-030, filed 11/25/14, effective 12/26/14; WSR 13-20-026, § 181-79A-030, filed 9/23/13, effective 10/24/13; WSR 12-18-005, § 181-79A-030, filed 8/23/12, effective 9/23/12; WSR 10-16-124, § 181-79A-030, filed 8/3/10, effective 9/3/10; WSR 09-20-088, § 181-79A-030, filed 10/6/09, effective 11/6/09; WSR 06-14-010, § 181-79A-030, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-79A-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 05-04-055, § 180-79A-030, filed 1/28/05, effective 2/28/05; WSR 04-04-011, § 180-79A-030, filed 1/23/04, effective 2/23/04; WSR 02-04-015, § 180-79A-030, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010, 28A.305.130 (1) and (2). WSR 01-03-153, § 180-79A-030, filed 1/24/01, effective 2/24/01; WSR 99-23-023, §

180-79A-030, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-79A-030, filed 12/23/98, effective 1/23/99.]

OTS-2826.1

AMENDATORY SECTION (Amending WSR 20-22-006, filed 10/21/20, effective 11/21/20)

WAC 181-80-010 Basic requirements. (1) Alternative routes to teacher certification programs are partnerships between professional educator standards board-approved preparation program providers, Washington school districts, and other partners as appropriate. These partnerships are focused on district-specific teacher shortage areas. Approved alternative routes partnerships are eligible to apply for the alternative routes block grant and to facilitate alternative route conditional scholarship program as described in RCW 28A.660.050.

(2) Each prospective teacher preparation program provider, in cooperation with a Washington school district or consortia of school districts operating an approved alternative route to teacher certification program must meet the following requirements:

(a) **Partnership requirements.** Alternative routes providers shall establish an alternative routes partnership memorandum of agreement (MOA) between the approved teacher preparation program provider and each partnering district or consortia of districts. Each MOA shall require:

(i) An identification, indication of commitment, and description of the role of approved teacher preparation program provider and partnering district or consortia of districts, including specific duties of each partner;

(ii) The role of each partner in candidate recruitment, screening, selection, and oversight;

(iii) The role of each partner in field placement and student teaching and a description of when each begins within the program;

(iv) The role of each partner in mentor selection, training, and support;

(v) A description of how the district intends for the alternative route program to support its workforce development plan and how the presence of alternative route candidates will advance its school improvement plans.

(b) **Programmatic requirements.** Programs shall uphold the following requirements in addition to requirements and standards listed in chapter 181-78A WAC.

(i) Ensure candidates meet assessment requirements for basic skills, content knowledge, and performance-based assessment per RCW 28A.410.220, 28A.410.280, and chapter 181-78A WAC (~~(181-78A-300)~~).

(ii) Fingerprint and character clearance under RCW 28A.410.010 must be current at all times during the field experience for candidates who do not hold a valid Washington certificate.

(iii) Clinical practice for teacher candidates should consist of no less than five hundred forty hours in classroom settings.

(iv) Mentorship requirements must be met in accordance with chapter 181-78A WAC (~~(181-78A-220 and 181-78A-300)~~) and each candidate

must be assigned a mentor. The candidate must receive mentoring for the duration of the residency.

(v) **Teacher development plan:** Ensure the design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's standards for residency certification. The plan must also include:

(A) Identification of one or more tools to be used to assess a candidate's performance once the candidate is about halfway through their residency;

(B) Recognition for relevant prior learning that demonstrates meeting residency certification competencies; and

(C) A description of the criteria that would result in early exit from the program with residency certification.

(vi) **Shortage areas.** Alternative route programs shall enroll candidates in a subject or geographic endorsement shortage area, as defined by the professional educator standards board.

[Statutory Authority: Chapter 28A.410 RCW. WSR 20-22-006, § 181-80-010, filed 10/21/20, effective 11/21/20. Statutory Authority: RCW 28A.410.220. WSR 19-05-010, § 181-80-010, filed 2/7/19, effective 3/10/19; WSR 17-18-006, § 181-80-010, filed 8/24/17, effective 9/24/17.]

WSR 21-04-102
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed February 1, 2021, 10:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-22-009.

Title of Rule and Other Identifying Information: Chapters 181-85, 181-86, 181-87, and 181-88 WAC regarding educator professional practice.

Hearing Location(s): On March 18, 2021, at 8 a.m. Virtual board meeting <https://www.pesb.wa.gov/about-us/board-meetings/>, <https://www.pesb.wa.gov/about-us/contact-us/>.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by March 15, 2021, 8 a.m.

Assistance for Persons with Disabilities: PESB, phone 360-725-6275, email pesb@k12.wa.us, by March 10, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HB 1139 (2019), section 310 asked for recommendations regarding the improvement of the administration of professional educator certificate discipline in Washington. PESB and the office of superintendent of public instruction convened a stakeholder workgroup to make these recommendations. This rule making reflects recommendations from the stakeholder workgroup to board policy.

This rule making includes changes to the code of conduct, changes to procedures in disciplinary orders and actions, and nonsubstantive updates and clarification.

Reasons Supporting Proposal: A stakeholder workgroup reviewed and made recommendations regarding these changes to the professional educator certificate discipline system. The board considered the workgroup's recommendations at meetings in November 2020 and January 2021 and listened to stakeholder feedback.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-867-8424; Implementation and Enforcement: PESB, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-725-6275.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The probable benefits of the rule are greater than its probable cost.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

January 29, 2021
Maren Johnson
Rules Coordinator

OTS-2808.1

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-85-085 In-service education records. Holders of certificates affected by this chapter shall retain the necessary in-service records from the approved in-service provider for the purpose of any audit by the superintendent of public instruction. Such holders shall be notified on such form that the ~~((intentional))~~ falsification or deliberate misrepresentation, including omission, of a material fact on such form subjects the holder to revocation of his or her certificate under RCW 28A.410.090(6), and chapters 181-86 and 181-87 WAC ~~((and that))~~. A copy of such completed form should be retained by the holder for possible disputes arising under this chapter and for other purposes that may arise, including verification of in-service hours completed for a current or prospective employer.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-143, § 181-85-085, filed 7/24/19, effective 8/24/19. Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-85-085, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-85-085, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-12-076, § 180-85-085, filed 6/1/90, effective 7/2/90; WSR 89-01-043 (Order 28-88), § 180-85-085, filed 12/14/88; WSR 88-01-086 (Order 16-87), § 180-85-085, filed 12/21/87.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-85-106 Filing requirement with SPI. Each certificate holder, affected by the continuing education requirements of this chapter, ~~((shall be))~~ is responsible for filing with the superintendent of public instruction, ~~((prior to))~~ before the lapse date, a verification form supplied by the superintendent of public instruction, which indicates compliance with the continuing education requirements of this chapter. Such form shall:

- (1) Provide space for indicating how the certificate holder met the continuing education requirement.
- (2) Include an attestation by the certificate holder as to the accuracy of the information provided.
- (3) State thereon that falsification or deliberate misrepresentation, including omission, of any material fact shall be an act of unprofessional conduct for which the holder's certificate may be revoked.

[WSR 06-02-051, recodified as § 181-85-106, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-12-076, § 180-85-106, filed 6/1/90, effective 7/2/90.]

OTS-2809.2

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-003 Authority. The authority for this chapter is RCW 28A.410.010 and 28A.410.090 which authorizes the professional educator standards board to establish, publish, and enforce rules (~~(and regulations)~~) determining eligibility for certification of personnel employed in the common schools of this state. (Note: RCW (~~28A.02.201~~)) 28A.195.010 (3)(a) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-86-003, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-003, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-003, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-011 Valid certificate required. Persons serving as teachers in the public or private schools or as principals or educational staff associates in public schools under chapter 181-79A WAC and in (~~(vocational)~~) career and technical education positions (~~(as established by)~~) under chapter 181-77 WAC shall hold certificates authorized by the professional educator standards board for service in the respective roles as required by statute or rules of the professional educator standards board.

Any certificate issued (~~(pursuant to)~~) under chapter 181-77 or 181-79A WAC or previous standards of the professional educator standards board shall entitle the holder thereof to be employed by a public or nonpublic school for the performance of duties encompassed by the type of certificate as specified in WAC 181-79A-140 if such certification is required by statute or rules of the professional educator standards board, unless such certificate is under suspension or until such certificate expires, lapses, or is revoked or surrendered.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-86-011, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-011, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-011, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. WSR 97-04-082, § 180-86-011, filed 2/5/97, effective 3/8/97.]

NEW SECTION

WAC 181-86-012 Definitions. The following definitions apply to terms used in this chapter:

- (1) "Education practitioner" has the same meaning as defined in chapter 181-87 WAC.
- (2) "Student" has the same meaning as defined in WAC 181-87-040.
- (3) "Colleague" has the same meaning as defined in chapter 181-87 WAC.

[]

AMENDATORY SECTION (Amending WSR 15-11-069, filed 5/19/15, effective 6/19/15)

WAC 181-86-013 Good moral character and personal fitness—Definition. As used in this chapter, the terms "good moral character and personal fitness" means character and personal fitness necessary to serve as a certificated employee in schools in the state of Washington, including character and personal fitness to have contact with, to teach, and to perform supervision of children. Good moral character and personal fitness includes, but is not limited to, the following as described in RCW 28A.400.322:

- (1) ~~No conviction ((of any felony crime involving:~~
- ~~(a) The physical neglect of a child under chapter 9A.42 RCW;~~
 - ~~(b) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, excepting motor vehicle violations under chapter 46.61 RCW;~~
 - ~~(c) The sexual exploitation of a child under chapter 9.68A RCW;~~
 - ~~(d) Sexual offenses where a child is the victim under chapter 9A.44 RCW;~~
 - ~~(e) The promotion of prostitution under chapter 9A.88 RCW;~~
 - ~~(f) The sale or purchase of a child under RCW 9A.64.030;~~
 - ~~(g) Provided, That the general classes of felony crimes referenced within this subsection shall include equivalent federal and crimes in other states committed against a child;~~
 - ~~(h) Provided further, That for the purpose of this subsection "child" means a minor as defined by the applicable state or federal law;~~
 - ~~(i) Provided further, That for the purpose of this subsection "conviction" shall include a guilty plea) or plea of guilty to any felony crime occurring after July 23, 1989, and before July 26, 2009, involving:~~
 - (a) The physical neglect of a child under chapter 9A.42 RCW;
 - (b) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, except motor vehicle violations under chapter 46.61 RCW;
 - (c) Sexual exploitation of a child under chapter 9.68A RCW;
 - (d) Sexual offenses under chapter 9A.44 RCW where a minor is the victim;
 - (e) Promoting prostitution of a minor under chapter 9A.88 RCW;
 - (f) The sale or purchase of a minor child under RCW 9A.64.030;
 - (g) Violation of laws of another jurisdiction that are similar to those specified in (a) through (f) of this subsection.
- (2) No conviction or plea of guilty to any felony crime, including attempts, conspiracies, or solicitations to commit a felony crime, occurring on or after July 26, 2009, involving:
- (a) A felony violation of RCW 9A.88.010, indecent exposure;
 - (b) A felony violation of chapter 9A.42 RCW involving physical neglect;
 - (c) A felony violation of chapter 9A.32 RCW;
 - (d) A violation of RCW 9A.36.011, assault 1; RCW 9A.36.021, assault 2; RCW 9A.36.120, assault of a child 1; RCW 9A.36.130, assault of a child 2; or any other felony violation of chapter 9A.36 RCW in-

volving physical injury except assault 3 where the victim is eighteen years of age or older;

(e) A sex offense as defined in RCW 9.94A.030;

(f) A violation of RCW 9A.40.020, kidnapping 1; or RCW 9A.40.030, kidnapping 2;

(g) A violation of RCW 9A.64.030, child selling or child buying;

(h) A violation of RCW 9A.88.070, promoting prostitution 1;

(i) A violation of RCW 9A.56.200, robbery 1; or

(j) A violation of laws of another jurisdiction that are similar to those specified in (a) through (i) of this subsection.

~~((2))~~ (3) No conviction of any crime within the last ten years, including motor vehicle violations, which would materially and substantially impair the individual's worthiness and ability to serve as a professional within the public and private schools of the state. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to practice, the following and any other relevant considerations shall be weighed:

(a) Age and maturity at the time the criminal act was committed;

(b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;

(c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;

(d) Criminal history and the likelihood that criminal conduct will be repeated;

(e) The permissibility of service as a professional educator within the terms of any parole or probation;

(f) Proximity or remoteness in time of the criminal conviction;

(g) Any evidence offered which would support good moral character and personal fitness;

(h) If this subsection is applied to a person certified under the laws of the state of Washington in a suspension or revocation action, the effect on the education profession, including any chilling effect, shall be weighed; and

(i) In order to establish good moral character and personal fitness despite the criminal conviction, the applicant or ~~((certificate holder))~~ education practitioner has the duty to provide available evidence relative to the above considerations. The superintendent of public instruction has the right to gather and present additional evidence which may corroborate or negate that provided by the applicant or ~~((certificate holder))~~ education practitioner.

~~((3))~~ (4) No behavioral problem which endangers the educational welfare or personal safety of students, teachers, ~~((or other))~~ colleagues, or other affected persons within the educational setting.

~~((4))~~ (5) No practice within the state of Washington within the previous five school years with an expired, lapsed, suspended, surrendered, or revoked certificate in a professional position for which certification is required under the rules of the professional educator standards board.

(6) For the purpose of this section "child" means a minor as defined by the applicable state or federal law.

(7) For the purpose of this section "conviction" shall include a guilty plea.

[Statutory Authority: RCW 28A.410.210. WSR 15-11-069, § 181-86-013, filed 5/19/15, effective 6/19/15; WSR 06-14-010, § 181-86-013, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-013,

filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-013, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. WSR 97-04-082, recodified as § 180-86-013, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 18A.410.010 [28A.410.010] and 28A.70.005. WSR 92-01-127, § 180-75-081, filed 12/19/91, effective 1/19/92. Statutory Authority: RCW 28A.70.005. WSR 90-02-073, § 180-75-081, filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 34.05.220(A) [34.05.220 (1)(a)] and 34.05.250. WSR 89-22-010, § 180-75-081, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW 28A.70.005. WSR 87-09-010 (Order 2-87), § 180-75-081, filed 4/3/87.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-014 Good moral character and personal fitness—Continuing requirement. The good moral character and personal fitness requirement of applicants for certification under the laws of the state of Washington is a continuing requirement for holding a professional educational certificate under (~~regulations~~) rules of the professional educator standards board.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-86-014, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-014, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 97-04-082, recodified as § 180-86-014, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW 34.05.220(A) [34.05.220 (1)(a)] and 34.05.250. WSR 89-22-010, § 180-75-083, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW 28A.70.005. WSR 87-09-010 (Order 2-87), § 180-75-083, filed 4/3/87.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-035 Suspension order—Definition. As used in this chapter, the term "suspension order" means an official document issued by the superintendent of public instruction which contains:

- (1) Findings of fact.
- (2) One or more conclusions of law stating one or more of the following:
 - (a) The commission of an act of unprofessional conduct.
 - (b) The lack of good moral character.
 - (c) The lack of personal fitness.
- (3) An order suspending the education practitioner from practicing for a stated period of time.
- (4) Such order may contain a requirement that the (~~certificate holder~~) education practitioner fulfill certain conditions (~~precedent to~~) before resuming professional practice and certain conditions (~~subsequent to~~) after resuming professional practice.

[WSR 06-02-051, recodified as § 181-86-035, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-035, filed 1/2/90, effective 2/2/90.]

NEW SECTION

WAC 181-86-045 Letter of concern. (1) Upon mutual agreement of an education practitioner and the superintendent of public instruction, the superintendent of public instruction may issue a letter of concern in lieu of reprimand to an education practitioner.

(2) As used in this chapter, the term "letter of concern" means an official document issued by the superintendent of public instruction which contains:

(a) Findings of fact; and

(b) An agreement to not continue or repeat the conduct.

(3) Grounds for issuance of a letter of concern. The superintendent of public instruction may issue a letter of concern whenever the superintendent of public instruction determines that all of the following are met:

(a) The education practitioner has committed an act of unprofessional conduct and the evidence is sufficient to meet the preponderance of the evidence standard for a reprimand;

(b) The violation and the consequence are not serious, and the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a letter of concern; and

(c) The education practitioner has admitted the commission of an act of unprofessional conduct and has agreed not to continue or repeat the conduct described in the findings of fact.

(4) A letter of concern may not be appealed and is not a disciplinary action by the superintendent of public instruction.

[]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-065 Grounds for issuance of a reprimand order. (1) The superintendent of public instruction may issue a reprimand order whenever the superintendent of public instruction determines one or more of the following:

~~((1))~~ (a) That the ~~((certificate holder))~~ education practitioner has admitted the commission of an act of unprofessional conduct or lack of good moral character or personal fitness and has presented to the superintendent of public instruction an agreed order to not continue or repeat the conduct described in the findings of fact.

~~((2))~~ (b) That the ~~((certificate holder))~~ education practitioner has committed an act of unprofessional conduct but the evidence is probably insufficient to meet the clear and convincing proof standard for suspension or revocation.

~~((3))~~ (c) That the ~~((certificate holder))~~ education practitioner has committed an act of unprofessional conduct but the violation

and the consequence were not serious and the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a reprimand.

~~((4))~~ (2) Provided, that the superintendent of public instruction, in the administration of this chapter, shall place a high priority on processing complaints that allege circumstances which appear to warrant a suspension or revocation and, in order to do so, may elect not to pursue, when necessary, any and all complaints which appear to only warrant a reprimand.

[WSR 06-02-051, recodified as § 181-86-065, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-065, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-065, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-070 Grounds for issuance of suspension order. (1)

The superintendent of public instruction may issue a suspension order under one of the following conditions:

~~((1))~~ (a) The ~~((certificate holder))~~ education practitioner has admitted the commission of an act of unprofessional conduct or lack of good moral character or personal fitness and has presented to the superintendent of public instruction an agreed order to not serve as an education practitioner for a stated period of time and the superintendent of public instruction has agreed that the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a suspension. Such order may contain a requirement that the ~~((certificate holder))~~ education practitioner fulfill certain conditions ~~((precedent to resuming professional practice and certain conditions subsequent to resuming practice))~~ before requesting reinstatement of the suspended certificate, and certain conditions after the reinstatement of the suspended certificate.

~~((2))~~ (b) The ~~((certificate holder))~~ education practitioner has committed an act of unprofessional conduct or lacks good moral character but the superintendent of public instruction has determined that a suspension as applied to the particular ~~((certificate holder))~~ education practitioner will probably deter subsequent unprofessional or other conduct which evidences lack of good moral character or personal fitness by such ~~((certificate holder))~~ education practitioner, and believes the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a suspension. Such order may contain a requirement that the ~~((certificate holder))~~ education practitioner fulfill certain conditions ~~((precedent to resuming professional practice and certain conditions subsequent to resuming practice))~~ before requesting reinstatement of the suspended certificate, and certain conditions after the reinstatement of the suspended certificate.

~~((3))~~ (c) The ~~((certificate holder))~~ education practitioner lacks personal fitness but the superintendent of public instruction has determined the deficiency is correctable through remedial action

and believes the interest of the state in protecting the health, safety, and general welfare of students, colleagues, and other affected persons is adequately served by a suspension which states the education practitioner fulfill certain conditions (~~(precedent to resuming professional practice and which also may state certain conditions subsequent to resuming practice)~~) before requesting reinstatement of the suspended certificate, and certain conditions after the reinstatement of the suspended certificate.

~~((4) Provided, That)~~ (2) Suspension shall never be appropriate if the ~~((certificate holder))~~ education practitioner has committed a felony crime under WAC 181-86-013 (1) or (2).

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-86-070, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-070, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-070, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-070, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-075 Grounds for issuance of a revocation order. The superintendent of public instruction may issue a revocation order under one of the following conditions:

(1) The superintendent of public instruction has determined that the ~~((certificate holder))~~ education practitioner has committed a felony crime under WAC 181-86-013 (1) or (2), which bars the ~~((certificate holder))~~ education practitioner from any future practice as an education practitioner.

(2) The ~~((certificate holder))~~ education practitioner has not committed a felony crime under WAC 181-86-013 (1) or (2) but the superintendent of public instruction has determined the ~~((certificate holder))~~ education practitioner has committed an act of unprofessional conduct or lacks good moral character or personal fitness and revocation is appropriate.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-86-075, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-075, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-075, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-075, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-080 Factors to be considered ~~((prior to))~~ before issuing orders. ~~((Prior to))~~ Before issuing any disciplinary order under this chapter the superintendent of public instruction or designee shall consider, at a minimum, the following factors to determine the appropriate level and range of discipline, if any:

- (1) The seriousness of the act(s) and the actual or potential harm to persons or property;
- (2) The person's criminal history including the seriousness and amount of activity;
- (3) The age and maturity level of participant(s) at the time of the activity;
- (4) The proximity or remoteness of time in which the acts occurred;
- (5) Any activity that demonstrates a disregard for health, safety or welfare;
- (6) Any activity that demonstrates a behavioral problem;
- (7) Any activity that demonstrates a lack of fitness;
- (8) Any information submitted regarding discipline imposed by any governmental or private entity as a result of acts or omissions;
- (9) Any information submitted that demonstrates aggravating or mitigating circumstances;
- (10) Any information submitted to support character and fitness; and
- (11) Any other relevant information submitted.

[WSR 06-02-051, recodified as § 181-86-080, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 97-05-008, § 180-86-080, filed 2/7/97, effective 3/10/97.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-085 Admissions and professional conduct advisory committee—Creation and composition. The superintendent of public instruction shall appoint a nine-member admissions and professional conduct advisory committee. (~~Prior to~~) Before making appointments to such committee, the superintendent of public instruction shall consult with one or more officers within recognized professional associations regarding possible appointments. The advisory committee shall consist of three teachers, one of whom shall be a private school teacher, three educational staff associates, and three administrators. Advisory committee members must be practicing in such designated roles while serving on the advisory committee.

[WSR 06-02-051, recodified as § 181-86-085, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-085, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-090 Admissions and professional conduct advisory committee—Operational procedures. The following shall govern the operational procedures of the admissions and professional conduct advisory committee:

- (1) Meetings of the advisory committee shall be open to the public except when it is considering the admission or professional con-

duct of a particular (~~(certificate holder)~~) education practitioner unless such affected (~~(certificate holder)~~) education practitioner requests the meeting to be open to the public.

(2) Each member of the advisory committee shall have one vote.

[WSR 06-02-051, recodified as § 181-86-090, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-090, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-095 Admissions and professional conduct advisory committee—Duties. The duties of the admissions and professional conduct advisory committee are as follows:

(1) To advise the superintendent of public instruction and the professional educator standards board on matters related to good moral character, personal fitness, and unprofessional conduct regarding education practitioners.

(2) To review informal appeals conducted (~~(pursuant to)~~) under WAC 181-86-140 and provide recommendations to the review officer on the content of the written decision.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-86-095, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-095, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-095, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 14-24-012, filed 11/20/14, effective 12/21/14)

WAC 181-86-100 Reprimand or certificate suspension or revocation—Initiation of proceedings. (~~(The initiation of reprimand, suspension, or revocation proceedings by the superintendent of public instruction shall commence as a result of the following:))~~)

(1) Whenever the superintendent of public instruction or the designated administrative officer of the superintendent of public instruction having responsibility for certification becomes aware from whatever source that (~~(a certificate holder)~~) an education practitioner has had a professional license revoked or suspended by a licensing agency, has voluntarily surrendered a license or has been arrested, charged, or convicted for any felony offense included within WAC 181-86-013 (1) or (2), the superintendent of public instruction or the designated administrative officer shall cause an investigation.

(2) In all other cases, the initiation of investigative proceedings (~~(shall commence)~~) may begin only upon receipt of a written complaint from a school district or educational service district superintendent or the chief administrative officer of an approved private school or the chief administrative officer of a charter school. Such written complaint shall state the grounds and summarize the factual basis upon which a determination has been made that an investigation

by the superintendent of public instruction is warranted. The superintendent of public instruction shall provide the affected (~~certificate holder~~) education practitioner with a copy of such written complaint and a copy of WAC 181-86-180.

(3) Upon receipt of a written complaint from a school district or educational service district superintendent or the chief administrative officer of an approved private school or chief administrative officer of a charter school, the superintendent of public instruction will review the complaint and any supporting materials to determine whether a formal investigation should be pursued.

[Statutory Authority: RCW 28A.410.210. WSR 14-24-012, § 181-86-100, filed 11/20/14, effective 12/21/14; WSR 06-14-010, § 181-86-100, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-100, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-100, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. WSR 91-08-056, § 180-86-100, filed 4/2/91, effective 5/3/91. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-100, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-105 Duty of educational service district superintendent to investigate complaints. (1) Each educational service district superintendent shall cause to be investigated all written and signed complaints, from whatever source, that allege that a certificated education professional within (~~his or her~~) their educational service district is not of good moral character or personal fitness or has committed an act of unprofessional conduct. If the educational service district superintendent themselves is the subject of the complaint, the educational service district superintendent will forward the complaint to the superintendent of public instruction for investigation.

(2) If the educational service district superintendent investigates and determines the facts are reliable and further investigation by the superintendent of public instruction is warranted, the educational service district superintendent shall forward the written complaint and the results of (~~his or her~~) their investigation to the superintendent of public instruction (~~as provided, That~~).

(3) If the educational service district superintendent, after consultation with the assistant attorney general assigned to (~~his or her~~) their educational service district, determines that the substance of the complaint would not constitute grounds for reprimand, suspension, or revocation if true, then such educational service district superintendent need not investigate the complaint (~~as provided further, That~~).

(4) If the educational service district superintendent receives a written assurance from the superintendent of public instruction, a district superintendent, or a chief administrative officer of an approved private school that such official is investigating or will investigate the same or a substantially similar complaint, the educational service district superintendent shall be deemed to have caused an investigation in compliance with this section.

[WSR 06-02-051, recodified as § 181-86-105, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-105, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 14-02-073, filed 12/30/13, effective 1/30/14)

WAC 181-86-110 Duty of ESD superintendent, district superintendent and private school administrator to file complaints. (1) When an educational service district superintendent, a district superintendent, chief administrative officer of a charter school, or the chief administrative officer of an approved private school possesses sufficient reliable information to believe that a certificated employee within such district or approved private school is not of good moral character or personally fit or has committed an act of unprofessional conduct, such superintendent or chief administrative officer, within a reasonable period of time of making such determination, shall file a written complaint with the superintendent of public instruction (~~+~~ ~~Provided, That~~)).

(2) If an educational service district, charter school, or school district is considering action to discharge an employee of such district, the educational service district, charter school, or school district superintendent need not file such complaint until ten calendar days after making the final decision to serve or not serve formal notice of discharge.

[Statutory Authority: RCW 28A.410.210. WSR 14-02-073, § 181-86-110, filed 12/30/13, effective 1/30/14. WSR 06-02-051, recodified as § 181-86-110, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-110, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-116 Investigative priorities—Levels of acts or omissions of misconduct. (1) (~~The superintendent of public instruction or designee shall prioritize~~) In prioritizing the investigation of alleged ((certificated individual)) misconduct, lack of fitness, or unprofessional conduct ((in)) by an education practitioner, the superintendent of public instruction or designee may consider the following ((descending)) in order((+)) from Level I of higher priority to Level IV of lower priority.

In determining priority for investigation, the superintendent of public instruction or designee may also consider the efficient use of available resources, the relative urgency or lack of urgency in resolving various complaints in the public interest, the provisional contract status of the education practitioner, and the right to recommend forms of discipline appropriate to the offenses committed.

(a) **Level I.** Level I actions (~~shall have the highest investigative priority and~~) are those allegations, if proven true, for which

permanent mandatory revocation (~~(shall be)~~) is the appropriate disciplinary action. They include the following convictions for which permanent revocation of a certificate is mandatory under RCW

28A.410.090 (~~+~~

~~(i) Physical neglect of a child under chapter 9A.42 RCW;~~

~~(ii) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW);~~

~~(iii) Sexual exploitation of a child under chapter 9.68A RCW;~~

~~(iv) Sexual offenses under chapter 9A.44 RCW where a minor is the victim;~~

~~(v) Promoting prostitution of a minor under chapter 9A.88 RCW;~~

~~(vi) The sale or purchase of a minor child under RCW 9A.64.030;~~
or

~~(vii) Violation of similar laws of another jurisdiction).~~ The

following convictions are as described under RCW 28A.400.322.

(i) Guilty plea or conviction occurring after July 23, 1989, and before July 26, 2009, for any of the following felony crimes:

(A) Any felony crime involving the physical neglect of a child under chapter 9A.42 RCW;

(B) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, except motor vehicle violations under chapter 46.61 RCW;

(C) Sexual exploitation of a child under chapter 9.68A RCW;

(D) Sexual offenses under chapter 9A.44 RCW where a minor is the victim;

(E) Promoting prostitution of a minor under chapter 9A.88 RCW;

(F) The sale or purchase of a minor child under RCW 9A.64.030;

(G) Violation of laws of another jurisdiction that are similar to those specified in (a) (i) (A) through (F) of this subsection.

(ii) Guilty plea or conviction for any felony crime, including attempts, conspiracies, or solicitations to commit a felony crime, occurring on or after July 26, 2009, involving:

(A) A felony violation of RCW 9A.88.010, indecent exposure;

(B) A felony violation of chapter 9A.42 RCW involving physical neglect;

(C) A felony violation of chapter 9A.32 RCW;

(D) A violation of RCW 9A.36.011, assault 1; RCW 9A.36.021, assault 2; RCW 9A.36.120, assault of a child 1; RCW 9A.36.130, assault of a child 2; or any other felony violation of chapter 9A.36 RCW involving physical injury except assault 3 where the victim is eighteen years of age or older;

(E) A sex offense as defined in RCW 9.94A.030;

(F) A violation of RCW 9A.40.020, kidnapping 1; or RCW 9A.40.030, kidnapping 2;

(G) A violation of RCW 9A.64.030, child selling or child buying;

(H) A violation of RCW 9A.88.070, promoting prostitution 1;

(I) A violation of RCW 9A.56.200, robbery 1; or

(J) A violation of laws of another jurisdiction that are similar to those specified in (a) (ii) (A) through (I) of this subsection.

(b) **Level II.** Level II actions (~~(shall have the next investigative priority and)~~) are those allegations, if proven true, for which revocation may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Sexual activity with children and/or students;

(ii) Engaging in acts of violence leading to bodily injury;

(iii) Selling and/or manufacturing illegal drugs; or

(iv) Other activity that if convicted would result in a felony conviction.

(c) **Level III.** Level III actions (~~(shall have the next investigative priority and)~~) are those allegations, if proven true, for which suspension may be the appropriate disciplinary action. They include, but are not limited to the following:

- (i) Illegal drug possession and/or use;
- (ii) Threats related to persons or property;
- (iii) Alcohol abuse;
- (iv) Reckless conduct where no bodily injury results;
- (v) Engaging in unauthorized corporal punishment;
- (vi) Verbal or physical sexual harassment of students;
- (vii) Engaging in activity that demonstrates poor professional judgment; or

(viii) Other activity that if convicted would result in a misdemeanor conviction.

(d) **Level IV.** Level IV actions (~~(shall have the next investigative priority and)~~) are those allegations, if proven true, for which a reprimand may be the appropriate disciplinary action. They include, but are not limited to the following:

- (i) Practicing with a lapsed or expired certificate, or a certificate not valid for the position;
- (ii) Isolated failure to timely evaluate certificated personnel;

or

(iii) Intentionally hiring a person for a certificated role who does not possess a valid certificate.

(2) All cases shall be monitored periodically to determine if their priority level should change as a result of information uncovered during the investigation.

~~((3) Notwithstanding any provision of this section to the contrary, the office of professional practices reserves the right to reprioritize the investigation of complaints based upon the efficient use of available resources and/or the relative urgency or lack of urgency in resolving various complaints in the public interest, and the right to recommend forms of discipline appropriate to the offenses committed.))~~

[WSR 06-02-051, recodified as § 181-86-116, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-116, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. WSR 97-05-008, § 180-86-116, filed 2/7/97, effective 3/10/97.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-120 Issuance of denial order by superintendent of public instruction. Whenever the superintendent of public instruction takes action to deny an application, the superintendent of public instruction, in accordance with the provisions of this chapter, shall issue an order of denial of application for certification or endorsement to the applicant or affected (~~(certificate holder)~~) education practitioner and shall provide such person a copy of applicable administrative appeal procedures provided in this chapter.

[WSR 06-02-051, recodified as § 181-86-120, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-120, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-19-010, filed 9/8/06, effective 10/9/06)

WAC 181-86-130 Issuance of order for reprimand, suspension, or revocation by superintendent of public instruction. Whenever the superintendent of public instruction takes action to suspend or revoke a certificate or reprimand (~~(a certificate holder)~~) an education practitioner, the superintendent of public instruction, in accordance with the provisions of this chapter, shall issue an order of reprimand, suspension, or revocation to the affected (~~(certificate holder)~~) education practitioner and shall provide such person a copy of applicable administrative appeal procedures provided in this chapter. If the order is to suspend or revoke a certificate and the superintendent of public instruction has knowledge that such (~~(certificate holder)~~) education practitioner is employed within the common school system or by an approved private school, the superintendent of public instruction shall advise such employer that an order has been sent to the employee.

[Statutory Authority: RCW 28A.410.210. WSR 06-19-010, § 181-86-130, filed 9/8/06, effective 10/9/06. WSR 06-02-051, recodified as § 181-86-130, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-130, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-130, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-135 Issuance of final order for lapsing, reprimand, suspension, or revocation by superintendent of public instruction. Final orders for lapsing, reprimand, suspension, and revocation shall be issued by the superintendent of public instruction as follows:

- (1) If the (~~(certificate holder)~~) education practitioner fails to appeal a proposed order (~~(pursuant to)~~) under this chapter within thirty calendar days following the date of mailing the proposed order, the superintendent of public instruction shall issue a final order of lapsing, reprimand, suspension, or revocation.
- (2) If the (~~(certificate holder)~~) education practitioner appeals a proposed order (~~(pursuant to)~~) under this chapter, the superintendent of public instruction shall not issue a final order until completion of the informal review process by the superintendent of public instruction.

[WSR 06-02-051, recodified as § 181-86-135, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-135, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 11-14-112, filed 7/6/11, effective 8/6/11)

WAC 181-86-140 Appeal—General. Any person who applies directly to the superintendent of public instruction for a certificate, particular endorsement, certificate renewal, or certificate reinstatement whose application is denied or any person who is notified that (~~his or her~~) their certificate is suspended or revoked or that a reprimand order has been issued shall be advised that (~~he or she is~~) they are entitled to appeal that decision to the superintendent of public instruction if (~~he or she~~) they follow(~~s~~) the procedures established in this chapter(~~(: Provided, That))~~).

The appeal procedure may not be used to seek reinstatement of a certificate if that certificate has been revoked in the preceding twelve months by the superintendent of public instruction.

The appeal procedure to the superintendent of public instruction consists of two levels, one informal and one formal. The use of the informal level is a condition precedent to use of the formal level. In addition, RCW 34.05.570 provides for judicial review of such decisions.

[Statutory Authority: RCW 28A.410.210. WSR 11-14-112, § 181-86-140, filed 7/6/11, effective 8/6/11; WSR 06-14-010, § 181-86-140, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-140, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-140, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-140, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 19-24-101, filed 12/4/19, effective 1/4/20)

WAC 181-86-145 Appeal procedure—Informal SPI review. Any person who appeals the decision or order to deny (~~his or her~~) their application, the issuance of a reprimand, or the order to suspend or revoke (~~his or her~~) their certificate must file a written notice with the superintendent of public instruction within thirty calendar days following the date of postmarked mailing or other notification, whichever is earlier, from the section of the superintendent of public instruction's office responsible for certification of the decision or order. A written notice of appeal is deemed filed upon actual receipt during office hours by the section of the superintendent of public instruction's office responsible for certification of the decision or order.

The written notice must set forth the reasons why the appellant believes (~~his or her~~) their application should have been granted or why (~~his or her~~) their certificate should not be suspended or revoked, or why the reprimand should not be issued whichever is applicable.

Following timely notice of appeal, the superintendent of public instruction shall appoint a review officer who shall proceed as follows:

(1) If the appeal does not involve good moral character, personal fitness, or unprofessional conduct, the review officer shall review

the application and appeal notice and may request further written information including, but not limited to, an explanation from the person or persons who initially reviewed the application of the reason(s) why the application was denied. If the review officer deems it advisable, ~~((he or she))~~ they shall schedule an informal meeting with the appellant, the person or persons who denied the application, and any other interested party designated by the review officer to receive oral information concerning the application. Any such meeting must be held within thirty calendar days of the date of receipt by the superintendent of public instruction of the timely filed appeal notice.

(2) If the appeal involves good moral character, personal fitness, or acts of unprofessional conduct, the review officer shall schedule an informal meeting of the applicant or ~~((certificate holder))~~ education practitioner, the office of superintendent of public instruction, and/or counsel for the applicant or ~~((certificate holder))~~ education practitioner with the admissions and professional conduct advisory committee. Such meeting shall be scheduled in accordance with the calendar of meetings of the advisory committee ~~((: Provided, That))~~. However, the notice of appeal must be received at least ~~((fifteen))~~ thirty calendar days in advance of a scheduled meeting.

(3) Send by certified mail a written decision (i.e., findings of fact and conclusions of law) on the appeal within thirty calendar days from the date of post-marked mailing the timely filed appeal notice or informal meeting, whichever is later. The review officer may uphold, reverse, or modify the decision to deny the application, the order to reprimand, or the order to suspend or revoke the certificate.

(4) The timelines stated herein may be extended by the review officer for cause.

(5) ~~((Provided, That))~~ In the case of an action for suspension or revocation of a certificate, the review officer, if so requested by an appellant, shall delay any review under this section until all quasi-judicial administrative or judicial proceedings (i.e., criminal and civil actions), which the review officer and the appellant agree are factually related to the suspension or revocation proceeding, are completed, including appeals, if the appellant signs the agreement stated in WAC 181-86-160. In requesting such delay, the appellant shall disclose fully all pending quasi-judicial administrative proceedings in which the appellant is involved.

(6) Forms of written notice accepted will be as published by the superintendent of public instruction.

[Statutory Authority: Chapter 28A.410 RCW. WSR 19-24-101, § 181-86-145, filed 12/4/19, effective 1/4/20. Statutory Authority: [RCW 28.410.220]. WSR 18-01-022, § 181-86-145, filed 12/8/17, effective 1/8/18. Statutory Authority: RCW 28A.410.210. WSR 13-20-029, § 181-86-145, filed 9/23/13, effective 10/24/13; WSR 06-14-010, § 181-86-145, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-145, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-145, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-145, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 13-20-029, filed 9/23/13, effective 10/24/13)

WAC 181-86-150 Appeal procedure—Formal SPI review process.

Formal appeals to the superintendent of public instruction shall be provided as follows:

(1) Any person who has filed an appeal in accordance with WAC 181-86-140 and desires to have the decision of the review officer formally reviewed by the superintendent of public instruction may do so. To instigate review under this section, a person must file a written notice with the superintendent of public instruction within thirty calendar days following the date of post-marked mailing of the review officer's written decision. A written notice of appeal is deemed filed upon actual receipt during office hours by the section of the superintendent of public instruction's office responsible for certification of the decision or order.

(2) For purposes of hearing an appeal under this section, the superintendent of public instruction shall conduct a formal administrative hearing in conformance with the Administrative Procedure Act, chapter 34.05 RCW. The superintendent of public instruction, in carrying out this duty, may contract with the office of administrative hearings (~~(pursuant to)~~) under RCW 28A.300.120 to hear a particular appeal. Decisions in cases formally appealed (~~(pursuant to)~~) under this section may be made by the administrative law judge selected by the chief administrative law judge if the superintendent of public instruction delegates this authority (~~(pursuant to)~~) under RCW 28A.300.120.

(3) The decision of the superintendent of public instruction or the administrative law judge, whichever is applicable, shall be sent by certified mail to the appellant's last known address and if the decision is to reprimand, suspend, or revoke, the appellant shall be notified that such order takes effect upon signing of the final order.

The superintendent of public instruction or the administrative law judge, whichever is applicable, may uphold, reverse, or modify the decision to deny the application, the order to reprimand, or the order to suspend or revoke the certificate.

(4) Forms of written notice accepted will be as published by the superintendent of public instruction.

[Statutory Authority: RCW 28A.410.210. WSR 13-20-029, § 181-86-150, filed 9/23/13, effective 10/24/13; WSR 11-14-112, § 181-86-150, filed 7/6/11, effective 8/6/11; WSR 06-14-010, § 181-86-150, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-150, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 92-15-037, § 180-86-150, filed 7/9/92, effective 8/9/92. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-150, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-86-170 Burden and standard of proof. The following burden and standard of proof shall be applicable:

(1) If an application for certification or reinstatement has been denied for lack of good moral character or personal fitness, the evidence submitted by the applicant must prove by clear and convincing evidence that he or she is of good moral character and personal fitness or the application will be denied.

(2) In a suspension or revocation proceeding, the superintendent of public instruction must prove by clear and convincing evidence that the ~~((certificate holder))~~ education practitioner is not of good moral character or personal fitness or has committed an act of unprofessional conduct.

(3) In all other proceedings, including reprimand, the standard of proof shall be a preponderance of evidence.

[WSR 06-02-051, recodified as § 181-86-170, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-170, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-170, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-86-175 Emergency suspension of certificate. Notwithstanding any other provision of this chapter, the superintendent of public instruction, ~~((pursuant to))~~ under RCW 34.05.479, may emergency suspend a certificate if the superintendent of public instruction finds that the public health, safety, or welfare of students, colleagues, or the general public imperatively requires emergency action. In such cases, the holder of the certificate who is subjected to emergency suspension of ~~((his or her))~~ their certificate shall have the right to ~~((commence))~~ begin an informal review of such action within forty-eight hours of filing a notice of appeal with the superintendent of public instruction or, if applicable, to sign an agreement ~~((pursuant to))~~ under WAC 181-86-180. If such an agreement is signed or, if not, unless the superintendent of public instruction sustains the emergency action within seven calendar days of the filing of the notice of appeal, the emergency suspension shall be void. The superintendent of public instruction, in carrying out this duty, may contract with the office of administrative hearings, ~~((pursuant to))~~ under RCW ~~((28A.03.050))~~ 28A.300.120, to hear the appeal and sustain the emergency action.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-86-175, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-175, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-175, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 18-21-014, filed 10/4/18, effective 11/4/18)

WAC 181-86-180 Voluntary surrender of certificates. A holder of a certificate who has not received a final order for revocation of

((his or her)) their certificate may voluntarily surrender ((his or her)) their certificate to the superintendent of public instruction for any reason other than conviction of a felony crime stated ((with-in)) under WAC 181-86-013 (1) and (2).

((A certificate holder)) An education practitioner voluntarily surrendering a certificate shall provide the superintendent of public instruction the following affidavit.

"I hereby voluntarily surrender my certificate(s). Certificate #"

I further understand that the superintendent of public instruction will notify other states and public and private school officials with the state of Washington that I have voluntarily surrendered my certificate(s)."

Name:

Certificate Number:

Upon request for reinstatement of such certificate, the applicant must comply with chapter 181-77 or 181-79A WAC and, in addition, must disclose in full the reasons for the voluntary surrender of the certificate. ((In the event)) If the surrendered certificate would have expired or lapsed but for the surrendering of the certificate, the applicant must meet all requirements for reinstating an expired or lapsed certificate.

[Statutory Authority: [Chapter 28A.410 RCW]. WSR 18-21-014, § 181-86-180, filed 10/4/18, effective 11/4/18. Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-86-180, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-86-180, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-180, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-180, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-19-010, filed 9/8/06, effective 10/9/06)

WAC 181-86-185 Notification of denial, surrender, suspension, or revocation of certificates. The superintendent of public instruction shall notify all other states whenever an applicant has been denied a certificate for failure to possess good moral character or personal fitness or whenever a certificate has been suspended, surrendered, or revoked and shall provide the full name and certificate number, if applicable, to the agency responsible for certification in each state. The superintendent of public instruction shall notify appropriate public or private school officials within the state the name and certification number of all ((certificate holders)) education practitioners whose certificates have been suspended, surrendered, or revoked.

[Statutory Authority: RCW 28A.410.210. WSR 06-19-010, § 181-86-185, filed 9/8/06, effective 10/9/06. WSR 06-02-051, recodified as § 181-86-185, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-185, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.70.005. WSR 90-02-076, § 180-86-185, filed 1/2/90, effective 2/2/90.]

OTS-2810.1

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-87-003 Authority. The authority for this chapter is RCW ((28A.410.090)) 28A.410.010 which authorizes the professional educator standards board to establish, publish, and enforce rules ((and regulations)) determining eligibility for and certification of personnel employed in the common schools of this state. This authority is supplemented by RCW 28A.410.090 which authorizes the revocation and suspension of certificates, as well as reprimands, for unprofessional conduct. (Note: RCW ((28A.02.201)) 28A.195.010 (3) (a) requires most private school classroom teachers to hold appropriate Washington state certification with few exceptions.)

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-87-003, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-87-003, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-003, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-87-010 Public policy goals of chapter. The public policy goals of this chapter are as follows:

- (1) To protect the health, safety, and general welfare of students within the state of Washington.
- (2) To assure the citizens of the state of Washington that education practitioners are accountable for acts of unprofessional conduct.
- (3) To define and provide notice to education practitioners within the state of Washington of the acts of unprofessional conduct for which they are accountable ((pursuant to)) under the provisions of chapter 181-86 WAC.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-87-010, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-87-010, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-010, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-87-015 Accountability for acts of unprofessional conduct. Any educational practitioner who commits an act of unprofessional conduct proscribed within this chapter may be held accountable for such conduct ((pursuant to)) under the provisions of chapter 181-86 WAC.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-87-015, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-87-015, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-015, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-87-025 Exclusivity of chapter. No act, for the purpose of this chapter, (~~shall be~~) is defined as an act of unprofessional conduct unless it is included in this chapter.

[WSR 06-02-051, recodified as § 181-87-025, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-025, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-87-035 Education practitioner—Definition. As used in this chapter, the term "education practitioner" means any certificate holder licensed under (~~rules~~) Title 181 WAC of the professional educator standards board to serve as a certificated employee, or any person serving in a position for which certification is required under Title 181 WAC of the professional educator standards board.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-87-035, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-87-035, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-035, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-87-045 Colleague—Definition. As used in this chapter, the term "colleague" (~~means any person with whom the education practitioner has established a professional relationship and includes fellow workers and employees regardless of their status as education practitioners~~) includes a certificated educator or any individual employed on a permanent or temporary basis.

[WSR 06-02-051, recodified as § 181-87-045, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-045, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 14-21-056, filed 10/8/14, effective 11/8/14)

WAC 181-87-055 Alcohol or controlled substance abuse. Unprofessional conduct includes:

(1) Being under the influence, as defined in RCW 46.61.506, of alcohol, marijuana or of a controlled substance, as defined in chapter 69.50 RCW, on school premises or at a school-sponsored activity involving students, following:

(a) Notification to the education practitioner by ~~((his or her))~~ their employer of concern regarding alcohol or substance abuse affecting job performance;

(b) A recommendation by the employer that the education practitioner seek counseling or other appropriate and available assistance; and

(c) The education practitioner has had a reasonable opportunity to obtain such assistance.

(2) The possession, use, or consumption on school premises or at a school sponsored activity of a Schedule 1 controlled substance, as defined by the state pharmacy quality assurance commission, or a Schedule 2 controlled substance, as defined by the state pharmacy quality assurance commission, without a prescription authorizing such use.

(3) The consumption of an alcoholic beverage on school premises or at a school sponsored activity involving students if such consumption is contrary to written policy of the school district or school building.

(4) The possession of marijuana or marijuana-infused product on school premises or at a school sponsored activity involving students if such possession violates Washington law or is contrary to written policy of the school district or school building.

(5) The use or consumption of marijuana or marijuana-infused product on school premises or at a school sponsored activity.

[Statutory Authority: RCW 28A.410.210, 2013 c 3, and 2013 c 19. WSR 14-21-056, § 181-87-055, filed 10/8/14, effective 11/8/14. WSR 06-02-051, recodified as § 181-87-055, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-055, filed 1/2/90, effective 2/2/90.]

NEW SECTION

WAC 181-87-062 Digital communication. (1) Unprofessional conduct includes inappropriate digital communication with a student including, but not limited to: Cell phone, text messaging, email, instant messaging, blogging, or other social media or social network communication.

(2) Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to:

(a) The nature, purpose, timing, and amount of the communication;

(b) The subject matter of the communication;

(c) Whether the communication was made openly, or the educator attempted to conceal the communication;

(d) Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship, was sexually ex-

plicit, or involved discussion of the sexual history, activities, or preferences of either the educator or the student.

[]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-87-070 Unauthorized professional practice. (1) Any act performed without good cause that materially contributes to one of the following unauthorized professional practices is an act of unprofessional practice.

~~((1))~~ (a) The intentional employment of a person to serve as an employee in a position for which certification is required by rules of the professional educator standards board when such person does not possess, at the time of commencement of such responsibility, a valid certificate to hold the position for which such person is employed.

~~((2))~~ (b) The assignment or delegation in a school setting of any responsibility within the scope of the authorized practice of nursing, physical therapy, or occupational therapy to a person not licensed to practice such profession unless such assignment or delegation is otherwise authorized by law, including the rules of the appropriate licensing board.

~~((3))~~ (c) The practice ~~((of education by a certificate holder during any period in which such certificate has been suspended))~~ with an expired, lapsed, suspended, surrendered, or revoked certificate in a position for which certification is required under Title 181 WAC of the professional educator standards board.

~~((4))~~ (d) The failure of ~~((a certificate holder))~~ an education practitioner to abide by the conditions within an agreement, executed ~~((pursuant to))~~ under WAC 181-86-160, to not continue or to accept education employment.

~~((5))~~ (e) The failure of ~~((a certificate holder))~~ an education practitioner to comply with any condition, limitation, or other order or decision entered ~~((pursuant to))~~ under chapter 181-86 WAC.

~~((6) Provided, That)~~ (2) For the purpose of this section, good cause includes, but is not limited to, exigent circumstances where immediate action is necessary to protect the health, safety, or general welfare of a student, colleague, or other affected person.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-87-070, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-87-070, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 97-21-075, § 180-87-070, filed 10/17/97, effective 11/17/97. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-070, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-87-080 Sexual misconduct with students. As used in this chapter, "sexual misconduct with students" means:

(1) Unprofessional conduct includes the commission by an education practitioner of any sexually exploitive act with or to a student including, but not limited to, the following:

~~((1))~~ (a) Any sexual advance, verbal or physical;

~~((2))~~ (b) Sexual intercourse as defined in RCW 9A.44.010;

~~((3))~~ (c) Indecent exposure as defined in RCW 9A.88.010;

~~((4))~~ (d) Sexual contact, i.e., the intentional touching of the sexual or other intimate parts of a student except to the extent necessary and appropriate to attend to the hygienic or health needs of the student;

~~((5) Provided, That))~~ (e) Engaging in sexual grooming of a student, such as befriending and/or establishing a connection with a student or a student's family to lower the student's inhibitions for the purpose of a sexual relationship.

(2) The provisions of this section shall not apply if at the time of the sexual conduct the participants are married to each other.

[WSR 06-02-051, recodified as § 181-87-080, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-080, filed 1/2/90, effective 2/2/90.]

AMENDATORY SECTION (Amending WSR 06-14-010, filed 6/22/06, effective 7/23/06)

WAC 181-87-095 Failure to file a complaint. The intentional or knowing failure of an educational service district superintendent, a district superintendent, or a chief administrator of a private school to file a complaint (~~pursuant to~~) under WAC 181-86-110 regarding the lack of good moral character or personal fitness of an education practitioner or the commission of an act of unprofessional conduct by an education practitioner is an act of unprofessional conduct.

[Statutory Authority: RCW 28A.410.210. WSR 06-14-010, § 181-87-095, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-87-095, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.70.005. WSR 90-02-075, § 180-87-095, filed 1/2/90, effective 2/2/90.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 181-87-030 Prospective application of chapter and amendments.

OTS-2811.1

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-88-020 Employee—Definition. As used in this chapter, the term "employee" means any employee or former employee of a school district, including all classified employees, all certificated employees, ~~((and))~~ all substitute employees, and all contractors.

[WSR 06-02-051, recodified as § 181-88-020, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. WSR 04-23-011, § 180-88-020, filed 11/4/04, effective 12/5/04.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-88-030 Student—Definition. For purposes of this chapter, "student" shall have the same meaning as defined in WAC ~~((180-87-040))~~ 181-87-040.

[WSR 06-02-051, recodified as § 181-88-030, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. WSR 04-23-011, § 180-88-030, filed 11/4/04, effective 12/5/04.]

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-88-060 Sexual misconduct—Definition. As used in this chapter, "sexual misconduct" means:

(1) Any sexually exploitive act with or to a student. Sexually exploitive acts include, but are not limited to, the following:

- (a) Any sexual advance, verbal, written or physical.
- (b) Sexual intercourse, as defined in RCW 9A.44.010.

(c) Sexual contact, i.e., the intentional touching of the sexual or other intimate parts of a student except to the extent necessary and appropriate to attend to the hygienic or health needs of the student.

~~((Any activities determined to be grooming behavior for purposes of establishing))~~ Engaging in sexual grooming of a student, such as befriending and/or establishing a connection with a student or a student's family to lower the student's inhibitions for the purpose of a sexual relationship.

(e) The provisions of (a) through (d) of this subsection shall not apply if at the time of the sexual conduct the participants are married to each other.

- (2) Indecent exposure, as defined in RCW 9A.88.010.

(3) Sexual harassment of another as defined under local employer policy.

(4) Commission of a criminal sex offense as defined under chapter 9A.44 RCW.

(5) Sexual abuse or sexual exploitation of any minor as found in any dependency action under chapter 13.34 RCW or in any domestic relations proceeding under Title 26 RCW.

(6) For purposes of this section, sexual misconduct occurs only when a school district determines it has sufficient information to conclude that an employee engaged in the sexual misconduct and it resulted in the employee leaving a position with the school district. Under RCW 28A.400.301, a district is prohibited from entering into any contract or agreement that has the effect of suppressing information about the misconduct of a present or former employee or has the effect of expunging such information from employer files, and a district must forward information regarding sexual misconduct to prospective employing districts.

[WSR 06-02-051, recodified as § 181-88-060, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.400.301. WSR 04-23-011, § 180-88-060, filed 11/4/04, effective 12/5/04.]

WSR 21-04-103
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed February 1, 2021, 10:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-23-073.

Title of Rule and Other Identifying Information: Sections in chapters 181-77, 181-79A, 181-82, and 181-82A WAC, credentialing for educators of the deaf, hard of hearing, blind, and visually impaired.

Hearing Location(s): On March 18, 2021, at 8 a.m., virtual board meeting <https://www.pesb.wa.gov/about-us/board-meetings/>, <https://www.pesb.wa.gov/about-us/contact-us/>.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by March 15, 2021, 8 a.m.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb@k12.wa.us, by March 10, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rules include modifications to the following credentials: Deaf education endorsement; career and technical education American sign language interpreter specialty area; orientation and mobility educational staff associate certificate/specialty endorsement; teacher of the visually impaired; classified provider of Braille instruction; certificated provider of Braille instruction.

Reasons Supporting Proposal: These changes reflect recommendations from stakeholder workgroups. The proposed changes increase access by adding options for obtaining or renewing credentials, or by reducing barriers. The workgroups looked at related roles as a whole to ensure a coherent system. Previously, each role had been considered separately, in separate years.

The recommendations clarify and streamline the system, while maintaining high standards.

Educators who currently hold these credentials will not find changes in what they need to do to renew other than that additional options may be available.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-867-8424; Implementation and Enforcement: PESB, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-725-6275.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The probable benefits of the rule are greater than its probable cost.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

January 29, 2021
Maren Johnson
Rules Coordinator

OTS-2829.3

AMENDATORY SECTION (Amending WSR 19-15-112, filed 7/22/19, effective 8/22/19)

WAC 181-77-041 Requirements for candidates seeking career and technical education certification on the basis of business and industry work experience. Candidates seeking career and technical education certification on the basis of business and industry work experience shall complete the following requirements in addition to those set forth in WAC 181-79A-150 (1) and (2) and 181-79A-155 (1) and (2).

(1) **Initial.**

(a) Candidates for the initial certificate shall provide documentation of occupational experience in the specialty area for which certification is sought. ~~((Individuals seeking the initial certification for the sole purpose of instruction of American sign language who are deaf, hard of hearing per RCW 43.20A.720, or whose primary method of communication is American sign language, may have the requirements for interpreter experience waived by the certification office of the superintendent of public instruction.))~~

(i) Six thousand hours is required.

(ii) Two thousand hours must be within the past ten years. Candidates may use up to four thousand hours of teaching experience in the specialty area they are experienced in and the remaining two thousand hours must be from nonteaching occupational experience. For STEM, candidate may use all six thousand hours of teaching experience in science, technology, engineering and/or math in lieu of occupational experience. For biomedical and biotechnology, candidates may use all six thousand hours of teaching experience in biology in lieu of occupational experience.

(iii) If all or part of the two thousand hours is more than ten years old, an additional three hundred hours of recent (occurring in the last two years) occupational experience is required.

~~((iv) Individuals seeking this certification solely for teaching American sign language must also hold or earn the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, the American sign language performance interview, or meet the standard required of interpreters for the deaf per RCW 28A.410.271.))~~

(b) Candidates for the initial certificate shall complete a professional educator standards board approved program under WAC 181-77A-029.

(c) In addition, candidates for initial certification in career choices or coordinator of worksite learning shall demonstrate competency in knowledge and skills described in WAC 181-77A-180.

(2) Initial renewal. Candidates for renewal of the initial certificate must complete ten quarter hours of credit or one hundred continuing education credit hours of career and technical education edu-

erator training in the subject matter certified to teach since the initial certificate was issued or renewed, or four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continuing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(3) Continuing.

(a) Candidates for the continuing certificate shall have in addition to the requirements for the initial certificate at least one of the following:

(i) Fifteen quarter hours or one hundred fifty continuing education credit hours of career and technical education educator training in the career and technical education subject matter to be certified completed subsequent to the issuance of the initial certificate; or

(ii) Hold a valid national board certificate issued by the National Board for Professional Teaching Standards in any certificate area.

(b) Candidates for the continuing certificate shall provide as a condition for the issuance of a continuing certificate documentation of two years full-time equivalency (FTE) of teaching/coordination in the career and technical education subject matter certified to teach with an authorized employer (i.e., school district(s) or skills center(s)).

(4) Continuing certificate renewal.

(a) Candidates for renewal of the continuing certificate shall complete since the previous continuing certificate was issued:

(i) Ten quarter hours or one hundred continuing education credit hours of career and technical education educator training, or four professional growth plans as defined in WAC 181-79A-030. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

(ii) Application for renewals shall not be submitted earlier than twelve months prior to the expiration date of the current certificate.

(iii) Expired certificates may be renewed with completion of one hundred continuing education credit hours within the previous five years from the date of the renewal application, or by completing four professional growth plans. Individuals completing fewer than four annual professional growth plans must complete the necessary continuing education credit hours needed to be the equivalent of one hundred continuing education credit hours.

(iv) An expired certificate may be renewed by presenting evidence to the superintendent of public instruction of completing the continu-

ing education credit hours or professional growth plan requirement within the five years prior to the date of the renewal application.

(b) Continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to career and technical education endorsement areas. This STEM continuing education requirement for certificate renewal is as described in WAC 181-85-075(6).

~~((c) Beginning January 2018, renewal of continuing certificates under this section specifically for teaching American sign language will require the national interpreter certification, certified deaf interpreter certificate, the American sign language teachers association certificate, or meet the standard required of interpreters of the deaf per RCW 28A.410.271.))~~

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-112, § 181-77-041, filed 7/22/19, effective 8/22/19. Statutory Authority: RCW 28A.410.220. WSR 18-21-070, § 181-77-041, filed 10/11/18, effective 11/11/18; WSR 18-08-007, § 181-77-041, filed 3/22/18, effective 4/22/18. Statutory Authority: RCW 28A.410.210. WSR 16-23-064, § 181-77-041, filed 11/14/16, effective 12/15/16; WSR 16-15-057, § 181-77-041, filed 7/18/16, effective 8/18/16; WSR 16-07-096, § 181-77-041, filed 3/18/16, effective 4/18/16; WSR 15-12-023, § 181-77-041, filed 5/26/15, effective 6/26/15; WSR 08-16-004, § 181-77-041, filed 7/23/08, effective 8/23/08; WSR 07-12-001, § 181-77-041, filed 5/23/07, effective 6/23/07; WSR 06-14-010, § 181-77-041, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-77-041, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 02-18-039, § 180-77-041, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). WSR 02-04-018, § 180-77-041, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010. WSR 00-18-064, § 180-77-041, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.410.010. WSR 98-01-026, § 180-77-041, filed 12/8/97, effective 1/8/98; WSR 97-04-085, § 180-77-041, filed 2/5/97, effective 3/8/97; WSR 95-12-056, § 180-77-041, filed 6/2/95, effective 7/3/95.]

NEW SECTION

WAC 181-77-050 Requirements for candidates seeking certification in the area of American sign language (ASL) interpreter. (1) Candidates seeking certification in the area of American sign language (ASL) interpreter who are deaf or hard of hearing under RCW 43.20A.720, or whose primary method of communication is American sign language, are considered to have met the occupational experience requirements for the American sign language (ASL) interpreter area under WAC 181-77-003(7).

(2) In addition to meeting the requirements for CTE certification under WAC 181-77-031 or 181-77-041, candidates seeking certification in the area of American sign language (ASL) interpreter shall meet the ASL related assessment requirements as published by the professional educator standards board.

[]

OTS-2827.1

AMENDATORY SECTION (Amending WSR 19-15-110, filed 7/22/19, effective 8/22/19)

WAC 181-79A-140 Types of certificates. The following types of certificates shall be issued:

(1) **Teacher.** The teacher certificate authorizes service as a classroom teacher.

(2) **Career and technical education.** The career and technical education certificate authorizes service in career and technical education programs in accordance with chapter 181-77 WAC.

(3) **First people's language/culture.** The first peoples' language, culture, and oral tribal traditions teacher certificate authorizes service in accordance with WAC 181-78A-700.

(4) **Administrator.**

(a) The administrator certificate for principal authorizes services as a building administrator or assistant principal.

(b) The administrator certificates for superintendent or program administrator will be issued to persons who meet professional educator standards board certification standards for service in the roles of superintendent or program administrator.

(5) **Educational staff associate.** The educational staff associate certificate authorizes service in the roles of school speech pathologists or audiologists, school counselors, school nurses, school occupational therapists, school physical therapists, school psychologists, school social workers, ~~((and))~~ school behavior analysts, and school orientation and mobility specialists. Nothing within chapter 181-79A WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

(6) **Limited certificates.** The following limited certificates are issued to individuals in accordance with WAC 181-79A-231:

(a) Conditional certificate.

(b) Emergency substitute certificate.

(c) Intern substitute teacher certificate.

(d) Transitional certificate.

(7) **Substitute certificate.** The substitute certificate is issued to individuals in accordance with WAC 181-79A-232.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-110, § 181-79A-140, filed 7/22/19, effective 8/22/19. Statutory Authority: RCW 28A.410.220. WSR 18-21-072, § 181-79A-140, filed 10/11/18, effective 11/11/18. Statutory Authority: RCW 28A.410.210. WSR 12-02-025, § 181-79A-140, filed 12/28/11, effective 1/28/12; WSR 08-08-028, § 181-79A-140, filed 3/24/08, effective 4/24/08; WSR 07-04-003, § 181-79A-140, filed 1/24/07, effective 2/24/07; WSR 06-14-010, § 181-79A-140, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-79A-140, filed 12/29/05, effective 1/1/06. Statutory Au-

thority: RCW 28A.305.130 and 28A.410.010. WSR 04-20-092, § 180-79A-140, filed 10/5/04, effective 11/5/04; WSR 02-18-037, § 180-79A-140, filed 8/26/02, effective 9/26/02; WSR 02-13-027, § 180-79A-140, filed 6/12/02, effective 7/13/02. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) through (4). WSR 02-04-018, § 180-79A-140, filed 1/24/02, effective 2/24/02. Statutory Authority: RCW 28A.410.010. WSR 00-13-063, § 180-79A-140, filed 6/16/00, effective 7/17/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). WSR 99-23-023, § 180-79A-140, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-79A-140, filed 12/23/98, effective 1/23/99. Statutory Authority: RCW 28A.410.010. WSR 97-04-088, § 180-79A-140, filed 2/5/97, effective 3/8/97.]

AMENDATORY SECTION (Amending WSR 19-15-110, filed 7/22/19, effective 8/22/19)

WAC 181-79A-145 Levels and validity of certificates. Two levels of certification may be issued.

(1) **Initial and continuing certificates:** Teachers with program completion dates through August 31, 2000, administrators with program completion dates through August 31, 2004, and educational staff associates with program completion dates through August 31, 2005, will be issued the following levels of certificates. Initial and continuing teachers' certificates after August 31, 2000, initial and continuing principal and program administrator certificates after August 31, 2004, and initial and continuing school counselor and school psychologist certificates after August 31, 2005, will be issued only to previous Washington certificate holders, under WAC 181-79A-123.

(a) **Initial certificate.**

(i) ~~The ((initial teacher certificate is valid for four years; the))~~ initial administrator certificates are valid for seven years; and the initial educational staff associate certificates are valid for five years. Initial teacher certificates shall be subject to renewal under WAC 181-79A-250(1) and 181-79A-123. Initial administrator certificates shall not be subject to renewal. Beginning September 1, 2020, initial educational staff associate certificates in the roles of school nurse, school occupational therapist, school physical therapist, school speech language pathologist or audiologist, school social worker, ~~((and))~~ school behavior analyst, and school orientation and mobility specialist are subject to renewal.

(ii) Initial administrator and educational staff associate certificate holders shall be issued a continuing certificate if they meet the requirements for such certificate. Initial principal and program administrator certificate holders, and initial school counselor and school psychologist certificate holders shall be issued a residency certificate if their initial certificate has expired or they do not meet the requirements for a continuing certificate.

(b) **Continuing certificate.** The continuing certificate is valid on a continuing basis as specified in WAC 181-79A-250(2).

(2) **Residency and professional certificates:** Teachers, administrators, and educational staff associates with program completion dates commencing with the dates indicated below will be issued the following levels of certificates:

(a) **Residency certificate.** The residency certificate will be issued to teachers beginning September 1, 2000, to principal/program administrators beginning September 1, 2004, and to educational staff associate school counselors and school psychologists no later than September 1, 2005.

~~(b) ((Until September 1, 2017, the first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two consecutive years of successful service in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students. When the principal, program administrator, or educational staff associate completes two consecutive years of successful service in the role in the state with the same employer, their residency certificate will be reissued with a five-year expiration date; provided, that the second consecutive year of successful service in the role will be considered to be complete for purposes of reissuance if a contract for the third such year has been signed and returned to the employer. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 181-79A-250.~~

~~(c) Beginning September 1, 2017,))~~ The first issue of a residency certificate for principals, program administrators, and educational staff associates shall be valid until the holder has completed two years of successful service in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students, at which time their residency certificate will be reissued with a five-year expiration date. Prior to the expiration date, the candidate must meet residency renewal requirements or earn a second-tier certificate for the role under WAC 181-79A-250.

~~((d))~~ (c) A first issue residency teacher certificate remains undated until the teacher has two years of successful experience under WAC 181-79A-206, at which time the residency certificate is dated for five years as verified by the certification office of the office of superintendent of public instruction. Prior to the expiration date, the candidate must earn a professional certificate or meet residency renewal requirements under WAC 181-79A-251.

~~((e))~~ (d) **Professional certificate.** The professional certificate will be issued to teachers beginning September 1, 2001, to principals/program administrators beginning September 1, 2007, and to educational staff associate school counselors and school psychologists beginning September 1, 2007. The professional certificate is valid for five years and shall be subject to renewal under chapter 181-79A WAC. A professional teacher's certificate based on the possession of a valid teacher's certificate issued by the National Board for Professional Teaching Standards under WAC 181-79A-257 or 181-79A-206 shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater. A professional educational staff associate certificate for school counselors based on the possession of a valid school counselor's certificate issued by the National Board for Professional Teaching Standards National Board Certification under WAC 181-79A-257 or 181-79A-206 shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(3) **First peoples' language, culture, and oral tribal traditions certificates:** The first peoples' language, culture, and oral tribal traditions certificate will be issued beginning in January 2007. The first peoples' language, culture, and oral tribal traditions certifi-

cate is valid for five years and shall be subject to renewal under WAC 181-79A-252.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-110, § 181-79A-145, filed 7/22/19, effective 8/22/19. Statutory Authority: RCW 28A.410.220. WSR 17-23-176, § 181-79A-145, filed 11/21/17, effective 12/22/17. Statutory Authority: RCW 28A.410.210. WSR 12-02-027, § 181-79A-145, filed 12/28/11, effective 1/28/12; WSR 11-12-032, § 181-79A-145, filed 5/25/11, effective 6/25/11; WSR 10-16-124, § 181-79A-145, filed 8/3/10, effective 9/3/10; WSR 08-03-100, § 181-79A-145, filed 1/20/08, effective 2/20/08; WSR 07-20-047, § 181-79A-145, filed 9/26/07, effective 10/27/07; WSR 07-12-006, § 181-79A-145, filed 5/24/07, effective 6/24/07; WSR 06-14-010, § 181-79A-145, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-79A-145, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 05-23-042, § 180-79A-145, filed 11/9/05, effective 12/10/05. Statutory Authority: RCW 28A.410.010 and 28A.305.130. WSR 05-15-023, § 180-79A-145, filed 7/7/05, effective 8/7/05. Statutory Authority: RCW 28A.401.010 [28A.410.010]. WSR 04-21-040, § 180-79A-145, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 28A.305.130 and 28A.410.010. WSR 02-18-037, § 180-79A-145, filed 8/26/02, effective 9/26/02. Statutory Authority: RCW 28A.410.010. WSR 01-09-004, § 180-79A-145, filed 4/5/01, effective 5/6/01; WSR 00-03-048, § 180-79A-145, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-79A-145, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 19-15-110, filed 7/22/19, effective 8/22/19)

WAC 181-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist, school speech-language pathologist or audiologist, school social worker, ((and)) school behavior analyst, and school orientation and mobility specialist. Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist, school social worker, ((and)) school behavior analyst, and school orientation and mobility specialist certification shall apply directly to the professional certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 181-79A-150, except state-approved educator preparation program.

(1) **Degree.** ~~((It shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified))~~ Candidates who hold a master's degree or higher are not required to obtain a role-specific master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that ~~((he or she has))~~ they have completed all course work requirements relevant to the ~~((required))~~ role-specific master's degree ~~((and has satisfactorily completed a comprehensive examination required in such master's degree program. If any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certifi-~~

ation, shall successfully complete the Praxis II exam in the appropriate role).

(2) **Professional transitions to public schools.** Candidates for the initial certificate for the roles under this section must complete the professional transitions to public schools coursework under WAC 181-79A-224.

(3) **Experience.** Candidates for the continuing certificate for the roles under this section must complete two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, state tribal compact school, state authorized charter school, or state agency that provides educational services for students.

(4) **School nurse.**

(a) **Initial.**

(i) The candidate shall hold a valid department of health license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher in nursing from a program accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

~~((iii) The candidate shall complete the professional transitions to public schools course work under WAC 181-79A-224.))~~

(b) **Continuing.**

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed one hundred fifty continuing education credit hours related to education, nursing, or other health sciences since the first issuance of the initial certificate.

~~(ii) ((The candidate shall have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.~~

~~(iii))~~ The candidate shall hold a valid department of health license as a registered nurse (RN) in Washington state.

~~((iv))~~ (iii) The candidate shall have completed suicide prevention training under RCW 28A.410.226, as described in WAC 181-85-075.

~~((3))~~ (5) **School occupational therapist.**

(a) **Initial.**

(i) The candidate shall hold a valid department of health license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate ~~((+))~~ degree or higher ~~((+ degree))~~ from an American Occupational Therapy Association approved program in occupational therapy.

~~((iii) The candidate shall complete the professional transitions to public schools course work under WAC 181-79A-224.))~~

(b) **Continuing.**

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed one hundred fifty continuing education credit hours related to occupational therapy, other health sciences, or education since the first issuance of the initial certificate.

~~(ii) ((The candidate shall have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.~~

~~(iii))~~ The candidate shall hold a valid department of health license as an occupational therapist in Washington state.

~~((4))~~ (6) **School physical therapist.**(a) **Initial.**

(i) The candidate shall hold a valid department of health license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate ~~((+))~~ degree or higher ~~((+degree))~~ from an American Physical Therapy Association accredited program in physical therapy.

~~((iii)) The candidate shall complete the professional transitions to public schools course work under WAC 181-79A-224.)~~

(b) **Continuing.** ~~((+))~~ The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed one hundred fifty continuing education credit hours related to physical therapy, other health sciences, or education since the first issuance of the initial certificate.

~~((ii)) The candidate shall have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.~~

~~(5))~~ (7) **School speech-language pathologist or audiologist.**

(a) **Initial.** ~~((+))~~ The candidate shall have completed all course work (except special project or thesis) for a master's degree or higher from a college or university program accredited by the American Speech and Hearing Association (ASHA) ~~((with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination. If any candidate has not completed a written comprehensive examination)).~~ If the degree program requires a written comprehensive exam relevant to the role, the candidate must successfully complete it. If the degree program does not require a written comprehensive exam relevant to the role, the candidate may present verification from ASHA of a passing score on ((the National Teacher's Examination)) a national exam in speech pathology or audiology ((as a condition for certification.

~~((ii)) The candidate shall complete the professional transitions to public schools course work under WAC 181-79A-224)), or a passing score on an exam approved by the professional educator standards board.~~

(b) **Continuing.**

(i) The candidate shall hold a master's degree ~~((in speech pathology or audiology))~~ or higher.

(ii) ~~((The candidate shall have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.~~

~~((iii))~~ The candidate shall have completed the requirements for the initial certificate as a speech language pathologist or audiologist and have completed one hundred fifty continuing education credit hours related to speech language pathology, audiology, other health sciences, or education since the first issuance of the initial certificate.

~~((6))~~ (8) **School social worker.**

(a) **Initial.** ~~((+))~~ The candidate shall hold a masters ~~((of))~~ degree or higher in social work or ~~((master of))~~ social welfare from an accredited institution of higher learning.

~~((ii)) The candidate shall complete the professional transitions to public schools course work under WAC 181-79A-224.)~~

(b) **Continuing.**

(i) The candidate shall have completed the requirements for the initial certificate as a school social worker and have completed one

hundred fifty continuing education credit hours related to the role of the school social worker or education since the first issuance of the initial certificate.

~~(ii) ((The candidate shall have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.~~

~~(iii))~~ The candidate shall have completed suicide prevention training under RCW 28A.410.226, as described in WAC 181-85-075.

~~((7))~~ (9) Behavior analyst.

(a) **Initial.**

(i) Candidates must hold a valid board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), or other national certificate as approved by the professional educator standards board.

(ii) Candidates must hold a master's degree or higher in any area.

(iii) Candidates must have achieved a passing score on the board certified behavior analyst (BCBA) exam from the behavior analyst certification board (BACB), or other assessment as approved by the professional educator standards board.

~~((iv) The candidate shall complete the professional transitions to public schools course work under WAC 181-79A-224.))~~

(b) **Continuing.**

(i) Candidates must hold a valid board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), or other national certificate as approved by the professional educator standards board.

(ii) The candidate shall have completed the requirements for the initial certificate as a behavior analyst and have completed one hundred fifty continuing education credit hours related to the role of the school behavior analyst or education since the first issuance of the initial certificate.

~~((iii) The candidate shall have completed two years full-time equivalency (FTE) in the role in Washington with a school district, state-approved private school, or state agency that provides educational services for students.))~~

(10) Orientation and mobility specialist.

(a) Initial.

(i) Candidates must hold a valid certified orientation and mobility specialist (COMS) certificate from the academy for certification of vision rehabilitation and education professionals (ACVREP), valid national orientation and mobility certification (NOMC) from the national blindness professional certification board (NBPCB), or other valid national certificate as approved by the professional educator standards board.

(ii) Candidates must hold a baccalaureate degree or higher in any area.

(b) Continuing.

(i) Candidates must hold a valid certified orientation and mobility specialist (COMS) certificate from the academy for certification of vision rehabilitation and education professionals (ACVREP), valid national orientation and mobility certification (NOMC) from the national blindness professional certification board (NBPCB), or other valid national certificate as approved by the professional educator standards board.

(ii) The candidate shall have completed the requirements for the initial certificate as an orientation and mobility specialist and have completed one hundred fifty continuing education credit hours related to the role or to education since the first issuance of the initial certificate.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-110, § 181-79A-223, filed 7/22/19, effective 8/22/19. Statutory Authority: RCW 28A.410.220. WSR 18-19-086, § 181-79A-223, filed 9/18/18, effective 10/19/18. Statutory Authority: RCW 28A.410.210. WSR 17-11-104, § 181-79A-223, filed 5/22/17, effective 6/22/17; WSR 15-23-014, § 181-79A-223, filed 11/6/15, effective 12/7/15; WSR 14-09-121, § 181-79A-223, filed 4/23/14, effective 5/24/14; WSR 13-12-061, § 181-79A-223, filed 6/4/13, effective 7/5/13; WSR 12-20-072, § 181-79A-223, filed 10/3/12, effective 11/3/12; WSR 12-02-024, § 181-79A-223, filed 12/28/11, effective 1/28/12; WSR 11-15-051, § 181-79A-223, filed 7/15/11, effective 8/15/11; WSR 08-08-045, § 181-79A-223, filed 3/26/08, effective 4/26/08; WSR 06-14-010, § 181-79A-223, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-79A-223, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 04-04-012, § 180-79A-223, filed 1/23/04, effective 2/23/04; WSR 99-14-012, § 180-79A-223, filed 6/24/99, effective 7/25/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-79A-223, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 19-15-110, filed 7/22/19, effective 8/22/19)

WAC 181-79A-224 Professional transitions to public schools course work requirement. (1) Professional transitions to public schools course work requirement. The candidate shall successfully complete a minimum of fifteen continuing education credit hours or one semester hour of course work approved by the professional educator standards board which will consist of the following outcomes. The candidates will:

(a) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(b) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(c) Demonstrate knowledge of appropriate resources in the school setting;

(d) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(e) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(f) Use professional standards to inform professional growth planning;

(g) Demonstrate an understanding of the use of human, community, and technological resources.

(2) An individual who meets all other requirements of the certificate but who has not completed the professional transitions to public schools requirement, shall be issued a temporary permit valid for one year under WAC 181-79A-128, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work prior to the expiration of the one year temporary permit.

(3) The professional educator standards board will review professional transitions to public schools course work for approval and re-approval/disapproval per the posted schedule. All providers of this course work must maintain current approval status to offer the course.

~~((4) Out-of-state candidates under WAC 181-79A-257 are considered to have met the requirement for the professional transitions to public schools course work provided they meet one or more of the following:~~

~~(a) Have completed a state-approved program as an educational staff associate in the role; or~~

~~(b) Hold or have held a certificate in the role, comparable to a residency or initial certificate, issued by another state and have practiced at the P-12 school level in the role outside the state of Washington for at least three years; or~~

~~(c) Hold an appropriate degree from an accredited college or university and have practiced three years as an educational staff associate in that role in a state where such certificate was not required.))~~

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-110, § 181-79A-224, filed 7/22/19, effective 8/22/19.]

AMENDATORY SECTION (Amending WSR 19-15-110, filed 7/22/19, effective 8/22/19)

WAC 181-79A-231 Limited certificates. All applicants for limited certificates must meet the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2).

Nothing within chapter 181-79A WAC authorizes practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations adopted by the appropriate licensure board or agency.

(1) **Conditional certificate.**

(a) **Intent.** The intent of the conditional certificate is to assist school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals.

(b) **Roles.**

(i) Teacher roles. The conditional certificate may be issued to teachers in all endorsement areas. Specific minimum requirements defined in this section apply to the following:

- (A) Special education teachers;
- (B) Nonimmigrant exchange teachers;
- (C) Traffic safety education teachers.

(ii) Educational staff associate roles. The conditional certificate may be issued in the following education staff associate roles:

- (A) School counselor;
- (B) School nurse;
- (C) School psychologist;
- (D) School social worker;
- (E) School speech language pathologist or audiologist;
- (F) School behavior analyst;
- (G) School orientation and mobility specialist.

(iii) Administrator role. The conditional certificate may be issued in the following administrator role: Principal.

(c) **Request requirements.**

(i) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that one or more of the following criteria have been met:

(A) The individual has extensive experience, unusual distinction, or exceptional talent in the subject matter to be taught or in the certificate role; or

(B) No person with regular certification in the area is available; or

(C) The individual holds a bachelor's degree or higher from an accredited college or university; or

(D) The individual is enrolled in an educator preparation program specific to the certificate role for which they are applying; or

(E) The individual will serve as a nonimmigrant exchange teacher and meets the specific minimum requirements defined in this section; or

(F) The individual will serve as a traffic safety education teacher and meets the specific minimum requirements defined in this section; or

(G) Circumstances warrant.

(ii) When requesting the conditional certificate, the district, the educational service district, or the approved private school will verify that all of the following criteria have been met:

(A) The district, educational service district, or approved private school has determined that the individual is competent for the assignment; and

(B) After specific inclusion on the agenda and a formal vote, the school board or educational service district board has authorized the conditional certificate; and

(C) The individual is being certificated for a specific assignment and responsibility in a specified activity/field; and

(D) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities; and

(E) The individual will not be serving in a paraeducator role; and

(F) The individual will be oriented and prepared for the assignment. In addition, prior to service, the individual will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment; and

(G) The individual will be assigned a mentor within twenty working days from the commencement of the assignment; and

(H) A written plan of support will be developed within twenty working days from the commencement of the assignment.

(d) **Minimum requirements.**

(i) Individuals must complete fifty continuing education credit hours after the issuance of the certificate, and prior to the reissu-

ance of the certificate. Holders of conditional certificates in the role of nonimmigrant exchange teacher are not required to complete fifty continuing education credit hours.

(ii) Special education teacher. The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from an accredited college or university.

The issuance of a conditional certificate to a special education teacher is contingent upon the individual being enrolled in a state-approved teacher preparation program resulting in a teacher certificate endorsed in special education.

An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(iii) Traffic safety education teacher. The applicant qualifies to instruct in the traffic safety program under WAC 392-153-021. Written plans of support and mentors are not required for holders of conditional certificates in the role of traffic safety education teacher.

(iv) Nonimmigrant exchange. A conditional certificate in the role of teacher may be issued to an individual admitted to the United States for the purpose of serving as an exchange teacher.

The individual must be eligible to serve as a teacher in the elementary or secondary schools in their country of nationality or last residence.

(v) School counselor. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for the role, in accordance with Washington requirements for certification.

(vi) School nurse. The applicant possesses a state of Washington license for a registered nurse. Applicants who meet the requirements for the initial school nurse certificate will not be issued a conditional school nurse certificate.

(vii) School psychologist. The applicant must hold a bachelor's degree or higher from an accredited college or university, and be enrolled in a state-approved preparation program for school psychologists, in accordance with Washington requirements for certification.

In addition, the candidate shall have completed all course work for the required master's degree, and shall be participating in the required internship.

(viii) School social worker. The applicant must hold a bachelor's degree or higher from an accredited college or university. The applicant must be enrolled in a master's degree program in social work or social welfare.

(ix) School speech language pathologist or audiologist. The applicant has completed a bachelor's degree or higher from an accredited college or university.

(x) School behavior analyst. Applicants must meet one or more of the following:

(A) Hold a valid Washington state department of health license as an assistant behavior analyst. The district, educational service district, or approved private school must provide a supervisor who meets the department of health requirements for a supervisor of assistant behavior analysts; or

(B) Hold a valid board certified assistant behavior analyst (BCABA) certificate from the behavior analyst certification board (BACB). The district, educational service district, or approved private school must provide a supervisor who meets the behavior analyst

certification board (BACB) requirements for a supervisor of board certified assistant behavior analyst (BCABA); or

(C) Hold a bachelor's degree, and, must be enrolled in or have completed the course work requirements for the board certified behavior analyst (BCBA) certificate from the behavior analyst certification board (BACB), as verified by the institution providing the behavior analysis course work.

(xi) School orientation and mobility specialist.

(A) Applicants must have completed all requirements for an approved national certificate with the exception of the internship and the assessment, as verified by the institution providing the course-work for the national certificate. The approved national certificates are the certified orientation and mobility specialist (COMS) certificate from the academy for certification of vision rehabilitation and education professionals (ACVREP), and the national orientation and mobility certification (NOMC) from the national blindness professional certification board (NBPCB).

(B) The school employer must ensure the candidate has access to a mentor who meets the requirements for an intern supervisor set by the academy for certification of vision rehabilitation and education professionals (ACVREP) or the national blindness professional certification board (NBPCB).

(xii) Principal. The applicant holds a bachelor's degree from an accredited college or university.

The candidate for conditional certification as a principal shall be enrolled in a program resulting in the issuance of a residency principal certificate, in accordance with Washington requirements for certification.

(e) **Validity.** The conditional certificate is valid for two years or less, and is only valid for the activity or role specified on the certificate.

The reissuance of the special education conditional certificate will have a validity period of three years or less.

(f) **Reissuance.**

(i) The conditional certificate may be reissued upon request by the employing local school district, approved private school, or educational service district, provided all conditions for the first issuance of the certificate are met.

(ii) The requesting school district, approved private school, or educational service district will verify that the fifty continuing education credit hours earned as a requirement for reissuance of the certificate are designed to support the individual's professional growth, and enhance the individual's knowledge or skills to better assist students in meeting state learning goals.

(iii) Nonimmigrant exchange. The conditional certificate in the role of teacher may be reissued while the individual is being sponsored by a school district in an exchange and visiting teacher program.

(iv) Special education teacher. Conditional certificates in special education may only be reissued once. The reissuance of the special education conditional certificate will have a validity period of three years or less. The special education conditional certificate may only be reissued upon verification by the preparation program provider that the individual is completing satisfactory progress in a state-approved teacher certificate program leading to a special education endorsement.

(v) School speech language pathologist or audiologist. Conditional certificates as a school speech language pathologist or audiologist may be reissued twice.

The conditional certification as a school speech language pathologist or audiologist may be reissued if the candidate is enrolled in a master's degree program resulting in issuance of an initial ESA certificate in accordance with Washington requirements for certification.

The school speech language pathologist or audiologist conditional certificate may be reissued a second time upon verification by the degree provider that the individual is completing satisfactory progress in a master's degree program resulting in issuance of an initial school speech language pathologist or audiologist certificate in accordance with Washington requirements for certification.

(vi) Conditional certificates as a school behavior analyst may be reissued twice.

(vii) Conditional certificates as a school orientation and mobility specialist may be reissued once.

(2) **Transitional certificate.**

(a) **Intent.** The transitional certificate provides flexibility for school districts in employing an individual whose continuing certificate has lapsed or expired.

(b) **Roles.** The transitional certificate may be issued in roles of teacher, education staff associate, and administrator for continuing certificates.

(c) **Request requirements.**

(i) The transitional certificate is issued upon request by a school district, approved private school, or educational service district for an individual whose continuing certificate has lapsed or expired according to WAC 181-85-040.

(ii) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of support for the holder to complete the necessary continuing certificate renewal requirements under WAC 181-85-130.

(d) **Minimum requirements.**

(i) The holder of the transitional certificate must complete the requirements for continuing certificate renewal within two years of the date the holder was issued the transitional certificate.

(ii) No individual whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(e) **Validity.** The transitional certificate is valid until two years from the date the holder was issued the certificate. The transitional certificate expiration date shall not be calculated under professional educator standards board policy WAC 181-79A-117.

(f) **Reissuance.** The transitional certificate is not renewable and may not be reissued.

(3) **Emergency substitute certificate.**

(a) **Intent.** The intent of the emergency substitute certificate is to assist school districts, approved private schools, and educational service districts with flexibility in meeting educator workforce needs.

(b) **Roles.**

(i) The emergency substitute certificate may be issued in the role of teacher.

(ii) To ensure that related services personnel deliver special education services in their respective discipline or profession, the emergency substitute certificate may not be issued for individuals to

serve in an educational staff associate role in accordance with 34 C.F.R. Part 300.156 (b) (2) (ii).

(iii) Holders of the emergency substitute certificate may serve in the local school district, approved private school, or educational service district which requested the certificate.

(iv) Holders of the emergency substitute certificate may serve as substitutes if the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes under WAC 181-79A-232.

(c) **Request requirements.**

(i) The emergency substitute certificate is issued upon request by a school district, approved private school, or educational service district.

(ii) If the local school district, approved private school, or educational service district has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, emergency substitute certificates may be issued to persons not fully qualified as substitutes under WAC 181-79A-232.

(d) **Validity.** Emergency substitute certificates shall be valid for two years or less.

(e) **Reissuance.** The emergency substitute certificate may be reissued upon request by the employing local school district, approved private school, or educational service district.

(4) **Intern substitute certificate.**

(a) **Intent.** The intent of the intern substitute certificate is to provide the intern the opportunity to serve as a substitute when the cooperating teacher is absent. This provides the intern with experience while allowing for consistency in instruction for the students.

(b) **Roles.** The intern substitute certificate may be issued to student teachers or intern teachers.

(c) **Request requirements.**

(i) School districts, educational service districts, and approved private schools may request intern substitute teacher certificates for individuals enrolled in student teaching and internships to serve as substitute teachers in the absence of the cooperating teacher.

(ii) The supervising preparation program provider must approve the candidate for the intern substitute teacher certificate.

(d) **Minimum requirements.** The holder of the intern substitute certificate may be called at the discretion of the school district, education service district, or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher or intern.

(e) **Validity.** The intern substitute teacher certificate is valid for one year or less.

(f) **Reissuance.** The intern substitute certificate may be reissued upon request by the local school district, approved private school, or educational service district, and approved by the educator preparation program provider.

[Statutory Authority: Chapters 28A.410 and 28A.413 RCW. WSR 19-15-110, § 181-79A-231, filed 7/22/19, effective 8/22/19. Statutory Authority: RCW 28A.410.220. WSR 18-21-072, § 181-79A-231, filed 10/11/18, effective 11/11/18; WSR 17-23-176, § 181-79A-231, filed 11/21/17, effective 12/22/17. Statutory Authority: RCW 28A.410.210. WSR 17-08-037, § 181-79A-231, filed 3/29/17, effective 4/29/17; WSR 16-16-044, § 181-79A-231, filed 7/26/16, effective 8/26/16; WSR 15-20-058, §

181-79A-231, filed 10/1/15, effective 11/1/15; WSR 10-16-124, § 181-79A-231, filed 8/3/10, effective 9/3/10; WSR 07-04-003, § 181-79A-231, filed 1/24/07, effective 2/24/07; WSR 06-14-010, § 181-79A-231, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-79A-231, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 04-20-090, § 180-79A-231, filed 10/5/04, effective 11/5/04; WSR 03-14-115, § 180-79A-231, filed 6/30/03, effective 7/31/03; WSR 03-12-035, § 180-79A-231, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 28A.410.010 and 28A.305.130. WSR 02-13-027, § 180-79A-231, filed 6/12/02, effective 7/13/02. Statutory Authority: RCW 28A.410.010. WSR 00-13-063, § 180-79A-231, filed 6/16/00, effective 7/17/00. Statutory Authority: RCW 28A.410.010 and 28A.305.130 (1) and (2). WSR 99-23-023, § 180-79A-231, filed 11/9/99, effective 12/10/99. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-79A-231, filed 12/23/98, effective 1/23/99.]

AMENDATORY SECTION (Amending WSR 18-21-011, filed 10/4/18, effective 11/4/18)

WAC 181-79A-257 Out-of-state candidates. Candidates for certification from other states who meet the general certificate requirements described in WAC 181-79A-150 (1) and (2) shall be eligible for Washington certificates as follows:

(1) **Residency or initial certificates.** The residency or initial certificate shall be issued by the superintendent of public instruction to any candidate who meets requirements for the (~~residency~~) certificate including testing requirements as described in RCW 28A.410.220, and who meets one of the following:

(a) Holds the appropriate degree and, if applicable, credit hours and/or licensing as set forth in this chapter, and has completed a state approved preparation program in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 181-79A-150(4). Such programs shall include a defined course of study and a supervised internship.

(b) (~~Provided, That~~) If a candidate for teacher, administrator, or educational staff associate certification does not meet the qualifications described in (a) of this subsection, a residency or initial certificate shall be issued to a candidate who:

(i) Holds an appropriate degree from an accredited college or university.

(ii) Holds or has held a certificate in the role, comparable to a residency or initial certificate, issued by another state and has practiced at the P-12 level in the role outside the state of Washington for at least three years.

(c) Holds an appropriate degree from an accredited college or university and has practiced three years as an educational staff associate in that role in a state where such certificate was not required.

(d) Holds a valid Nationally Certified School Psychologist (NCSP) credential issued by the National Association of School Psychologists (NASP); and applies for a residency educational staff associated school psychologist certificate.

(2) **Professional certificate.** After August 31, 2000, the professional certificate shall be issued to out-of-state candidates if the candidate meets requirements for the residency certificate including

testing requirements as described in RCW 28A.410.220, meets the child abuse course work requirement as described in WAC 181-79A-206 (3)(b), and if one of the following conditions is met:

(a) The candidate has completed an advanced level certification procedure approved by the professional educator standards board as equivalent to the approved program procedure required in Washington; or

(b) The candidate holds a valid teaching certificate issued by the National Board for Professional Teaching Standards; or

(c) The candidate holds a valid school counselor certificate issued by the National Board for Professional Teaching Standards (~~(f) or~~

~~(d) A Washington state college or university with an approved professional certificate program verifies that the candidate has met all the requirements of that institution's approved program. The college/university shall evaluate the candidate's background to determine whether or not course work or certification activities are equivalent to that college/university's approved program).~~

(3) ((As per)) Under RCW 18.340.020 out-of-state candidates who are military spouses shall receive expedited issuance of the appropriate certificate in accordance with this section.

(4) Out-of-state candidates must meet the assessment requirements per chapters 181-01 and 181-02 WAC. Equivalent assessments will be published by the board.

(5) Out-of-state candidates for educational staff associate certificates under WAC 181-79A-223 are considered to have met the requirement for the professional transitions to public schools course work provided they meet one or more of the following:

(a) Have completed a state-approved program as an educational staff associate in the role; or

(b) Hold or have held a certificate in the role, comparable to a residency or initial certificate, issued by another state and have practiced at the P-12 school level in the role outside the state of Washington for at least three years; or

(c) Hold an appropriate degree from an accredited college or university and have practiced three years as an educational staff associate in that role in a state where such certificate was not required.

[Statutory Authority: RCW 28A.410.220. WSR 18-21-011, § 181-79A-257, filed 10/4/18, effective 11/4/18. Statutory Authority: RCW 28A.410.210. WSR 15-23-013, § 181-79A-257, filed 11/6/15, effective 12/7/15; WSR 14-13-006, § 181-79A-257, filed 6/5/14, effective 7/6/14; WSR 11-15-038, § 181-79A-257, filed 7/13/11, effective 8/13/11; WSR 09-16-018, § 181-79A-257, filed 7/24/09, effective 8/24/09; WSR 07-20-047, § 181-79A-257, filed 9/26/07, effective 10/27/07; WSR 06-14-010, § 181-79A-257, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-79A-257, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 05-04-054, § 180-79A-257, filed 1/28/05, effective 2/28/05; WSR 04-21-005, § 180-79A-257, filed 10/7/04, effective 11/7/04; WSR 04-04-011, § 180-79A-257, filed 1/23/04, effective 2/23/04; WSR 04-04-009, § 180-79A-257, filed 1/23/04, effective 2/23/04; WSR 01-18-043, § 180-79A-257, filed 8/29/01, effective 9/29/01; WSR 01-13-108, § 180-79A-257, filed 6/20/01, effective 7/21/01; WSR 00-23-005, § 180-79A-257, filed 11/2/00, effective 12/3/00; WSR 00-03-048, § 180-79A-257, filed 1/14/00, effective 2/14/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-01-174, § 180-79A-257, filed 12/23/98, effective 1/23/99.]

OTS-2828.2

AMENDATORY SECTION (Amending WSR 20-16-144, filed 8/4/20, effective 9/4/20)

WAC 181-82-110 School district response and support for non-matched endorsements to course assignment of teachers. (1) Individuals with initial, residency, endorsed continuing, professional, or emergency teacher certificates who are employed with a school district under RCW 28A.405.210 may be assigned to classes other than in their areas of endorsement. If teachers are so assigned, the following shall apply:

(a) A designated representative of the district and any (~~such~~) teacher so assigned shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(b) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned.

(2) Special education preendorsement waiver:

(a) A teacher who has completed two hundred forty continuing education credit hours under WAC 181-85-030 of course work applicable to a special education, early childhood special education, teacher of the visually impaired, or deaf education endorsement shall be eligible for a preendorsement waiver from the special education office (~~per~~) under chapter 392-172A WAC ((which will allow that person to be employed as a special education teacher)). Individuals with a preendorsement waiver are considered to have met the requirements for "substantial professional training" for the appropriate endorsement under WAC 392-172A-02090.

(b) All remaining requirements for the special education, early childhood special education, teacher of the visually impaired, or deaf education endorsement shall be completed within five years.

(3) (~~Such~~) Teachers (~~shall~~) are not (~~be~~) subject to nonrenewal or probation based on evaluation(~~s~~) of their teaching effectiveness in the out-of-endorsement assignments under this section.

[Statutory Authority: Chapter 28A.410 RCW. WSR 20-16-144, § 181-82-110, filed 8/4/20, effective 9/4/20. Statutory Authority: RCW 28A.410.210. WSR 14-20-051, § 181-82-110, filed 9/25/14, effective 10/26/14; WSR 14-11-106, § 181-82-110, filed 5/21/14, effective 6/21/14; WSR 12-16-107, § 181-82-110, filed 8/1/12, effective 9/1/12; WSR 08-12-056, § 181-82-110, filed 6/2/08, effective 7/3/08; WSR 06-14-010, § 181-82-110, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-82-110, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010. WSR 03-04-023, § 180-82-110, filed 1/27/03, effective 2/27/03. Statutory Authority: RCW 28A.150.220(4), 28A.305.130(1), 28A.410.018. WSR 00-18-063, § 180-82-110, filed 9/1/00, effective 10/2/00. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010 and 28A.150.220(4). WSR 99-04-008, § 180-82-110, filed 1/21/99, effective 2/21/99.]

AMENDATORY SECTION (Amending WSR 17-17-135, filed 8/22/17, effective 9/22/17)

WAC 181-82-130 Assignment of persons providing instruction of Braille to students. (1) No certificated school district employee shall be assigned to provide instruction of Braille to students who has not demonstrated competency with the standards for Unified English Braille code by:

(a) Successful completion of the National (~~Literary Braille Competency Test~~) Certification in Unified English Braille (NCUEB) assessment from the National Blindness Professional Certification Board (NBPCB); or

(b) Successful completion of Library of Congress certification in Braille transcription; or

(c) Successful completion of the Braille competency test developed at Washington State School for the Blind; or

~~((e))~~ (d) Successful completion of any other test approved for use by the professional educator standards board.

(2) No classified school district employee working under the supervision of a certificated school district employee, which certificated employee meets the requirement of subsection (1) of this section, may produce Braille material or provide instruction in the Braille code unless the employee has demonstrated competency with the standards for Unified English Braille code as provided under subsection (1) of this section.

(3) (a) Each school district is responsible for monitoring the appropriate assignment of personnel under subsections (1) and (2) of this section.

(b) Any person under subsections (1) and (2) of this section shall have one year from the date of hire to successfully pass the testing requirement under subsection (1) of this section.

(c) The Washington Ogden Resource Center shall forward to the professional educator standards board the names of individuals who have passed the testing requirement under subsection (1) of this section and the date of passage. The center also shall forward to the professional educator standards board the names of individuals who have not passed the testing requirement within one year and the name of the employing school district of the individual.

(4) The professional educator standards board shall establish a test review committee which shall be responsible for developing criteria to evaluate a test under subsection (1) ~~((e))~~ of this section. No test shall be considered for approval by the professional educator standards board under subsection (1) ~~((e))~~ (d) of this section unless it has been evaluated by the test review committee and a recommendation for approval or disapproval has been submitted to the board. At a minimum, the membership of the committee shall include persons representing:

- (a) National Federation of the Blind of Washington;
- (b) Washington council of the blind;
- (c) Association of education and rehabilitation of the blind and visually impaired of Washington;
- (d) Washington instructional resource center for the visually impaired;
- (e) Washington state school for the blind; and
- (f) Office of the superintendent of public instruction.

(5) A person who has met the requirement of subsection (1) of this section shall maintain their facility with the current Unified English Braille code by ~~((+)~~

~~(a) Passing a recertification exam of completing learning modules every five years, or completing ten hours of Braille specific clock hours: Provided the option of clock hours is available only until January 2017)) meeting the requirements for recertification or renewal of one of the approved exams or certificates, if the exam or certificate offers a recertification or renewal option.~~

~~((b)) (6) Individuals who seek through subsection (5) ~~((a))~~ of this section to remain eligible to work with visually impaired students are responsible for documenting completion of ~~((continuing education))~~ recertification or renewal for one of the approved exams or certificates, if the exam or certificate offers a recertification or renewal option. Such individuals are strongly encouraged to provide a copy of their documentation to their employing school district. The documentation shall not be collected by the professional educator standards board. However, the documentation could be audited for purposes of compliance with basic education appropriation requirements under WAC 180-16-195.~~

[Statutory Authority: Chapter 28A.410 RCW. WSR 17-17-135, § 181-82-130, filed 8/22/17, effective 9/22/17. Statutory Authority: RCW 28A.410.210. WSR 16-04-128, § 181-82-130, filed 2/3/16, effective 3/5/16; WSR 06-14-010, § 181-82-130, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-82-130, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.305.130 (1) and (2), 28A.410.010, 28A.150.220(4). WSR 01-13-110, § 180-82-130, filed 6/20/01, effective 7/21/01; WSR 99-04-008, § 180-82-130, filed 1/21/99, effective 2/21/99.]

OTS-2830.2

AMENDATORY SECTION (Amending WSR 16-19-018, filed 9/9/16, effective 10/10/16)

WAC 181-82A-202 Certificate endorsements. Teacher certificates shall be endorsed as follows:

- (1) **All levels:**
 - (a) Bilingual education.
 - (b) Computer science.
 - (c) Deaf education.
 - (d) Deaf education with American sign language (ASL) proficiency.
 - (e) Designated arts: Dance.
 - ~~((d))~~ (f) Designated arts: Theatre arts.
 - ~~((e))~~ (g) Designated arts: Music: Choral, instrumental or general.
 - ~~((f))~~ (h) Designated arts, visual arts.
 - ~~((g))~~ (i) Designated world languages.
 - ~~((h))~~ (j) English language learner.
 - ~~((i))~~ (k) Health/fitness.
 - ~~((j))~~ (l) Library media.
 - ~~((k))~~ (m) Reading.

~~((1))~~ (n) Special education.

(o) Teacher of the visually impaired. Upon adoption of a content knowledge assessment by the professional educator standards board, teacher of the visually impaired will be available as an endorsement. Until adoption, teacher of the visually impaired will be available as a specialty endorsement.

(2) **Early childhood:**

- (a) Early childhood education.
- (b) Early childhood special education.

(3) **Elementary education.**

(4) **Middle level:**

- (a) Middle level—Humanities.
- (b) Middle level—Mathematics.
- (c) Middle level—Science.

(5) **Secondary level:**

- (a) Designated science: Biology.
- (b) Designated science: Chemistry.
- (c) Designated science: Earth and space science.
- (d) Designated science: Physics.
- (e) Designated career and technical education: Agriculture education, business and marketing education, family and consumer sciences education, and technology education.
- (f) English language arts.
- (g) History.
- (h) Mathematics.
- (i) Science.
- (j) Social studies.
- (k) Traffic safety.

[Statutory Authority: RCW 28A.410.210. WSR 16-19-018, § 181-82A-202, filed 9/9/16, effective 10/10/16; WSR 08-08-027, § 181-82A-202, filed 3/24/08, effective 4/24/08; WSR 07-19-058, § 181-82A-202, filed 9/14/07, effective 10/15/07; WSR 07-08-030, § 181-82A-202, filed 3/27/07, effective 4/27/07. WSR 06-02-051, recodified as § 181-82A-202, filed 12/29/05, effective 1/1/06. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). WSR 02-04-013, § 180-82A-202, filed 1/24/02, effective 2/24/02.]

AMENDATORY SECTION (Amending WSR 17-11-123, filed 5/23/17, effective 6/23/17)

WAC 181-82A-204 Endorsement requirements. (1) **Completing an endorsement with a residency certificate.** Candidates completing endorsements required to obtain a residency certificate ~~((7))~~ shall complete ~~((college/university))~~ teacher preparation programs approved by the professional educator standards board ~~((pursuant to))~~ under chapter 181-78A WAC, which include methodology ~~((see WAC 181-78A-264(5))~~ and field experience/internship ~~((see WAC 181-78A-264(6))~~ and pursuant ~~to)),~~ field experience, and endorsement program approval requirements in this chapter.

(2) **Adding additional endorsements.** In order to add an additional endorsement, the candidate shall meet one or more of the following:

- (a) Have completed a state-approved endorsement program which includes methodology ~~((see WAC 181-78A-264(5))~~) and addresses all en-

dorsement-specific competencies adopted and published by the professional educator standards board. The requirement for field experience shall be at the discretion of the ~~((college/university. Provided, that))~~ program provider. In cases where ~~((programs))~~ providers require ~~((a))~~ field ~~((experience/internship, the colleges/universities))~~ experience the provider should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's teaching schedule. The candidate shall also meet the content knowledge assessment requirement under chapter 181-02 WAC; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate; or

(c) Pass the ~~((subject))~~ content knowledge test approved by the professional educator standards board for the certificate endorsement being sought per the list of test only endorsements adopted and published by the professional educator standards board.

(3) **Out-of-state.** Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) ~~((Course work used to meet endorsement requirements must be completed through an accredited college/university as defined in WAC 181-78A-010.~~

~~((5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.~~

~~((6))~~ **Deaf education.** Obtaining the deaf education endorsement requires one or more of the following:

(a) Completion of a state-approved program in deaf education, and meeting the content knowledge assessment requirement under chapter 181-02 WAC; or

(b) Completion of a program in deaf education approved by the council on education of the deaf, and meeting the content knowledge assessment requirement under chapter 181-02 WAC; or

(c) Baccalaureate degree or higher in deaf education from a program approved by the council on education of the deaf under RCW 28A.410.225, and the content knowledge assessment requirement under chapter 181-02 WAC.

(5) **Deaf education with American sign language (ASL) proficiency endorsement.** Obtaining the deaf education with ASL proficiency endorsement requires meeting the criteria in subsection (4) of this section, and in addition, meeting the ASL proficiency requirements for the endorsement as published by the professional educator standards board.

(6) **Program specific requirements.** Nothing within this chapter precludes a ~~((college or university))~~ program provider from adopting additional requirements as conditions for recommendation ~~((7))~~ for an endorsement by such ~~((college or university,))~~ provider to the superintendent of public instruction ~~((for a particular subject area endorsement)).~~

[Statutory Authority: RCW 28A.410.210. WSR 17-11-123, § 181-82A-204, filed 5/23/17, effective 6/23/17; WSR 15-23-015, § 181-82A-204, filed 11/6/15, effective 12/7/15; WSR 15-12-097, § 181-82A-204, filed 6/2/15, effective 7/3/15; WSR 10-23-076, § 181-82A-204, filed 11/15/10, effective 12/16/10; WSR 10-16-016, § 181-82A-204, filed 7/22/10, effective 8/22/10; WSR 09-12-057 and 09-22-052, §

181-82A-204, filed 5/28/09 and 10/29/09, effective 6/28/09 and 11/29/09; WSR 06-14-010, § 181-82A-204, filed 6/22/06, effective 7/23/06. WSR 06-02-051, recodified as § 181-82A-204, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.410.010 and 28A.305.130. WSR 04-23-007, § 180-82A-204, filed 11/4/04, effective 12/5/04. Statutory Authority: RCW 28A.410.010. WSR 03-14-114, § 180-82A-204, filed 6/30/03, effective 7/31/03. Statutory Authority: Chapter 28A.410 RCW and RCW 28A.305.130 (1) through (4). WSR 02-04-013, § 180-82A-204, filed 1/24/02, effective 2/24/02.]

AMENDATORY SECTION (Amending WSR 13-05-071, filed 2/19/13, effective 3/22/13)

WAC 181-82A-208 Specialty endorsements. The following specialty endorsements may be added to an existing endorsed teaching certificate:

~~(1) ((Deaf education (per RCW 28A.410.225)).~~

~~(a) This specialty endorsement is required for teachers who will be working almost exclusively with students who are deaf or hard of hearing.~~

~~(b) Program requirements are waived and this specialty endorsement granted if a candidate possesses a baccalaureate or master's degree in deaf education from a teacher training program approved by the council on education of the deaf.~~

~~(2)) Environmental and sustainability education.~~

((3)) (2) Teacher of the visually impaired. Upon adoption of a content knowledge assessment by the professional educator standards board, teacher of the visually impaired will be available as an endorsement. Until adoption, teacher of the visually impaired will be available as a specialty endorsement.

~~((4) Orientation and mobility teacher. Program requirements are waived and this specialty endorsement granted if a teacher possesses an orientation and mobility specialist certificate from the academy for certification of vision rehabilitation and education professionals.~~

~~(5)) (3) Gifted education.~~

~~((6)) (4) Elementary mathematics specialist.~~

(5) Other specialty endorsements as approved by the professional educator standards board.

[Statutory Authority: RCW 28A.410.210. WSR 13-05-071, § 181-82A-208, filed 2/19/13, effective 3/22/13; WSR 13-04-098, § 181-82A-208, filed 2/6/13, effective 3/9/13; WSR 11-12-079, § 181-82A-208, filed 5/31/11, effective 7/1/11; WSR 10-17-015, § 181-82A-208, filed 8/5/10, effective 9/5/10; WSR 09-12-087, § 181-82A-208, filed 6/1/09, effective 7/2/09; WSR 06-20-063, § 181-82A-208, filed 9/29/06, effective 10/30/06.]

WSR 21-04-105
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed February 1, 2021, 10:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-08-011.

Title of Rule and Other Identifying Information: WAC 181-79A-228
Emergency teacher certificates.

Hearing Location(s): On March 18, 2021, at 8:00 a.m., virtual
board meeting <https://www.pesb.wa.gov/about-us/board-meetings/>,
<https://www.pesb.wa.gov/about-us/contact-us/>.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Professional Educator Standards Board
(PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA
98504-7236, email pesb@k12.wa.us, by March 15, 2021, 8:00 a.m.

Assistance for Persons with Disabilities: Contact PESB, phone
360-725-6275, email pesb@k12.wa.us, by March 10, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including
Any Changes in Existing Rules: Amend WAC to extend the period for
which emergency certificates are available, providing added flexibili-
ty for teacher candidates. Washington state approved teacher prepara-
tion programs may recommend candidates for an emergency certificate if
they have met all program completion requirements with the exception
of one or more of the assessment requirements. The emergency certifi-
cate allows teachers to serve in the role while they meet assessment
requirements.

Reasons Supporting Proposal: Testing centers continue to operate
at a reduced capacity to allow for social distancing. This makes it
very challenging for teacher candidates to make appointments to com-
plete their assessment requirements. This rule extends the period for
which emergency certificates are available, providing added flexibili-
ty for teacher candidates.

Programs may recommend for a first emergency certificate through
December 31, 2021.

Programs may recommend for a second emergency certificate through
June 30, 2022.

Candidates recommended for an emergency certificate may apply no
later than December 31, 2022.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Maren Johnson,
P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236,
360-867-8424; Implementation and Enforcement: PESB, P.O. Box 47236,
600 Washington Street S.E., Olympia, WA 98504-7236, 360-725-6275.

A school district fiscal impact statement is not required under
RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The
probable benefits of the rule are greater than its probable cost.

This rule proposal, or portions of the proposal, is exempt from
requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

January 29, 2021
Maren Johnson
Rules Coordinator

OTS-2825.2

AMENDATORY SECTION (Amending WSR 20-16-034, filed 7/25/20, effective 8/25/20)

WAC 181-79A-228 Emergency teacher certificates. Emergency teacher certificates, valid for one year, may be issued by the superintendent of public instruction under the following conditions:

(1) A teacher preparation program approved by the professional educator standards board has recommended the candidate as having met all requirements for program completion with the exception of one or more of the following:

(a) The performance assessment as described in WAC 181-78A-232 (~~(and 181-78A-300)~~);

(b) The content knowledge assessment as described in chapter 181-78A WAC (~~(181-78A-300(2)(b))~~); and

(c) The basic skills assessment as described in WAC 181-78A-232 (~~(and 181-78A-300)~~).

(2) During the validity period of the certificate, preparation program providers are required to inform, advise, and support applicants on assessment requirements as described in WAC 181-78A-231(3).

(3) Teacher preparation programs may recommend candidates for an emergency certificate under this section through (~~June 30~~) December 31, 2021.

(4) One additional one-year emergency certificate may be issued upon recommendation by the preparation program provider. Teacher preparation programs may recommend candidates for this additional one-year emergency certificate through (~~December 31, 2021~~) June 30, 2022.

(5) Candidates recommended for an emergency certificate under this section must apply for that certificate through the office of superintendent of public instruction no later than December 31, 2022.

[Statutory Authority: Chapter 28A.410 RCW. WSR 20-16-034, § 181-79A-228, filed 7/25/20, effective 8/25/20.]

WSR 21-04-107

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed February 1, 2021, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-24-087.

Title of Rule and Other Identifying Information: The department is planning to amend WAC 388-106-0050 What is an assessment?

Hearing Location(s): On March 9, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98501. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or by Skype. Due to the COVID-19 pandemic, hearing may be held via Skype, see DSHS website for most up-to-date information.

Date of Intended Adoption: Not earlier than March 10, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., March 9, 2021.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by February 23, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In light of the public health emergency, the Centers for Medicare and Medicaid Services (CMS) waived rules requiring in-person assessments. In addition, this change clarifies instances in which the in-person interviews are not required. Therefore, the department is amending WAC 388-106-0050 What is an assessment?

Reasons Supporting Proposal: The department wants to continue providing personal care services to vulnerable people during the pandemic. To do that, federal medicaid law requires an assessment of the person's functional eligibility. Because of the COVID-19 pandemic, in-person assessments increase the risk of transmission and the beneficiaries are often in high risk groups. Amendment of this rule is necessary for the preservation of the public health and safety because without it the department may not be able to safely assess vulnerable adults so that they can receive needed medicaid services. Without the amendment it may be difficult for the department to comply with medicaid regulations and receive federal financial participation. Existing federal law allows for the assessment to be performed remotely if the person agrees. The requirement that the beneficiary agrees to a remote assessment has been temporarily waived by CMS. The amendment aligns the state rule with federal requirements.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.520.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Kellie Nelson, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2512; Implementation and Enforcement: Rachelle Ames, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2353.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not a significant legislative rule pursuant to RCW 34.05.328 (5) (b) (vii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4) because the proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

January 28, 2021
Katherine I. Vasquez
Rules Coordinator

SHS-4839.3

AMENDATORY SECTION (Amending WSR 16-04-020, filed 1/22/16, effective 2/22/16)

WAC 388-106-0050 What is an assessment? (1) An assessment is an in-person interview in your home, current residence, or another location that is convenient to you that is conducted by the department, to inventory and evaluate your ability to care for yourself. The department will assess you at least every twelve months, or more often when there are significant changes necessitating revisions to your CARE plan, or at your request. If your assessment did not take place in the residence where you receive services, the department must visit that residence to evaluate your living situation and environment, for you to continue to receive services.

(2) Between assessments, the department may modify your current assessment without an in-person interview in your home or place of residence. The reasons that the department may modify your current assessment without conducting an in-person interview in your home or place of residence include but are not limited to the following:

(a) Errors made by department staff in coding the information from your in-person interview;

(b) New information requested by department staff at the time of your assessment and received after completion of the in-person interview (e.g. medical diagnosis);

(c) Changes in the level of informal support available to you; or

(d) Clarification of the coding selected.

(3) When the department modifies your current assessment, it will notify you using a Planned Action Notice of the modification regardless of whether the modification results in a change to your benefits. You will also receive a new service summary and assessment details, if requested.

(4) The assessment interview referenced in subsection (1) of this section does not need to be in-person under the following circumstances:

(a) The department requests and you agree to the interview being conducted remotely, and have adequate support to participate in the assessment if you need it; or

(b) An in-person interview is not required by the applicable federal regulation or the requirement is waived by the centers for medicare and medicaid services.

[Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.400 and 42 C.F.R. § 441.500-590. WSR 16-04-020, § 388-106-0050, filed 1/22/16, effective 2/22/16. Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 13-18-039 and 13-17-125, § 388-106-0050, filed 8/29/13 and 8/21/13, effective 10/1/13. Statutory Authority: RCW 74.08.090, 74.09.520, 74.39A.010 and 74.39A.020. WSR 06-05-022, § 388-106-0050, filed 2/6/06, effective 3/9/06. Statutory Authority: RCW 74.08.090, 74.09.520. WSR 05-11-082, § 388-106-0050, filed 5/17/05, effective 6/17/05.]

WSR 21-04-115

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed February 1, 2021, 1:31 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-915A-010
Physical therapists and physical therapist assistants, the board of physical therapy (board) is proposing to update the effective date in WAC 246-915A-010 for the physical therapy compact per RCW 18.74.500, Article IX(2). This rule adopts the effective date of the compact rules to October 25, 2020.

Hearing Location(s): On April 5, 2021, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the board of physical therapy will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Register to attend the physical therapy board meeting on April 5, 2021, 10:00 a.m. PDT at <https://attendee.gotowebinar.com/register/1868633617699825421>.

Date of Intended Adoption: April 5, 2021.

Submit Written Comments to: Kris Waidely, Program Manager, Department of Health (DOH), P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by March 22, 2021.

Assistance for Persons with Disabilities: Kris Waidely, program manager, phone 360-236-4847, fax 360-236-2901, TTY 711, email kris.waidely@doh.wa.gov, www.doh.wa.gov, by March 31, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The physical therapy compact commission made minor amendments to the compact rules. The compact commission held a public rules hearing where the amendments were adopted and became effective on October 25, 2020.

The purpose of this proposal is to adopt in Washington Administrative Code the effective date of the compact rules to October 25, 2020. The compact commission rules are not effective in Washington unless the board adopts them.

Summary of the minor amendments adopted by the compact commission are:

(1) Paragraph 1.1 adds a new definition for the "Recognized National Exam" as referenced in Section 3.A.6 and reorders accordingly based on alphabetical order.

(2) Chapter 3 - Compact Privilege Eligibility, Adverse Actions, and Encumbrances - Adds new Rule 3.10 to Chapter 3 - The new rule requires a compact privilege holder to report any new criminal conviction to the state licensing board(s) in each member state in which the individual has an active compact privilege.

(3) Rule 6.4 - Frequency of Reporting Adverse Actions - The title of Rule 6.4 has been changed to "Frequency of Reporting Adverse Actions and Non-Disciplinary Encumbrances" - To provide clarification that the provisions of Rule 6.4 also discuss non-disciplinary encumbrances.

(4) Rule 6.4.B - The time to report new adverse actions has been changed from ten to fourteen business days of the effective date of the adverse action against a licensee or compact privilege holder.

(5) Rule 6.4.D - Adds language "or on a compact privilege or compact privilege holder" which provides clarification that the rule applies to compact privileges and compact privilege holders as well as licensee[s].

(6) Rule 8.2 - Dispute Resolution Process - Informal, Mediation and Arbitration - The existing language in 8.2.E.2 was changed to make the language gender neutral.

Reasons Supporting Proposal: The board is proposing rules to comply with RCW 18.74.500, Article IX(2), which mandates that in order to participate in the compact in the state of Washington, the board of physical therapy must adopt compact rules.

Statutory Authority for Adoption: RCW 18.74.500, Article IX(2); and RCW 18.74.023.

Statute Being Implemented: RCW 18.74.500, Article IX(2).

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

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kris Waidely, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4847.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rule content is explicitly and specifically dictated by statute.

February 1, 2021
Renee Fullerton
Executive Director

OTS-2724.1

AMENDATORY SECTION (Amending WSR 20-11-063, filed 5/19/20, effective 6/19/20)

WAC 246-915A-010 Physical therapy licensure compact—Compact commission rules. (1) The physical therapy licensure compact

(compact) is established in Washington under RCW 18.74.500. Its purpose is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services.

(2) The rules of the physical therapy compact commission, in effect as of October (~~(27, 2019)~~) 25, 2020, are adopted and incorporated by reference.

(3) A copy of the rules is available for public inspection from the department of health at <https://www.doh.wa.gov/LicensesPermitsandCertificates/ProfessionsNewReneworUpdate/PhysicalTherapyLicensureCompact/RulesInProgress> or by calling the department of health's office of customer service at 360-236-4700.

(4) A licensee may exercise a compact privilege as provided in RCW 18.74.500, Article IV. Applicable fees are set forth in WAC 246-915A-990.

[Statutory Authority: RCW 18.74.023 and 18.74.500, Article IX(2). WSR 20-11-063, § 246-915A-010, filed 5/19/20, effective 6/19/20. Statutory Authority: RCW 18.74.500, 18.74.023, and 2017 c 108. WSR 19-12-056, § 246-915A-010, filed 5/31/19, effective 7/1/19.]

WSR 21-04-123

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed February 1, 2021, 3:24 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-322-990 Fees, the department of health (department) is proposing raising fees for psychiatric hospitals to implement the requirements of SHB 2426 (chapter 115, Laws of 2020).

Hearing Location(s): On March 11, 2021, at 2:00 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the department of health (DOH) will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without physical meeting space, will be held instead. We invite you to participate in our public rules hearing using your computer, tablet or smartphone. Please register at <https://attendee.gotowebinar.com/register/8632638936705010190>. After registering, you will receive a confirmation email containing information about joining the webinar. Participants can use their telephone or computer mic and speakers (VoIP), United States +1-562-247-8321.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Stephanie Vaughn, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2321, by March 11, 2021.

Assistance for Persons with Disabilities: Contact Stephanie Vaughn, phone 360-236-4617, fax 360-236-2321, TTY 711, email stephanie.vaughn@doh.wa.gov, by March 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing an increase to the psychiatric hospital licensing fees. This increase is needed to recover the costs of implementing SHB 2426 (chapter 115, Laws of 2020) which amended chapters 43.70 and 71.12 RCW to enhance the department's regulatory oversight for psychiatric hospitals to protect the health, safety, and well-being of patients seeking behavioral health care in these facilities. The department also made three technical edits to match department WAC style guidelines.

The current initial application and renewal fee is \$135 per bed. The fee amount is determined by taking the total amount of new costs and dividing it by the number of projected licensed beds. The department estimates the amount necessary to recover the costs of this new work is \$360 per bed. This would increase fees to \$495 per bed, effective July 1, 2021.

Reasons Supporting Proposal: State law, RCW 43.70.250 License fees for professions, occupations, and businesses, requires that a business-licensing program be fully self-supporting, and that sufficient revenue be collected through fees to fund expenditures. The department requires a fee increase to recover the cost of implementing SHB 2426. One-time general-fund state funding was provided in fiscal year 2021 to cover costs until fees could be established effective July 1, 2021.

New work required by SHB 2426 that increases the department's costs includes:

(1) Providing technical assistance to psychiatric hospitals licensed under chapter 71.12 RCW;

(2) Performing additional unannounced inspections of new psychiatric hospitals during the first two years of licensure or change of ownership; and

(3) Receiving, reviewing, and investigating reports of deaths and patient elopements.

Statutory Authority for Adoption: RCW 43.70.250, 43.70.110, and 71.12.670.

Statute Being Implemented: SHB 2426 (chapter 115, Laws of 2020); RCW 43.70.250 and 71.12.470.

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

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Vaughn, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4617; Implementation and Enforcement: Julie Tomaro, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2937.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5) (b) (vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

January 29, 2021
 Jessica Todorovich
 Chief of Staff
 for Umair A. Shah, MD, MPH
 Secretary

OTS-2800.2

AMENDATORY SECTION (Amending WSR 19-16-049, filed 7/30/19, effective 10/1/19)

WAC 246-322-990 Private psychiatric hospital fees. This section establishes the initial licensure and annual renewal fees for private psychiatric hospitals licensed under chapter 71.12 RCW.

(1) Applicants and licensees shall:

(a) Submit to the department an initial licensure fee of (~~one hundred thirty-five~~) four hundred ninety-five dollars for each bed space within the licensed bed capacity of the hospital (~~to the department~~);

(b) Submit to the department an annual renewal fee of (~~one hundred thirty-five~~) four hundred ninety-five dollars for each bed space within the licensed bed capacity of the hospital to the department;

(c) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of this chapter for twenty-four-hour assigned patient rooms;

(d) Include bed spaces assigned for less than twenty-four-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The private psychiatric hospital currently possesses the required movable equipment and certifies this fact to the department.

(e) Limit licensed bed spaces as required under chapter 70.38 RCW;

(f) Submit applications for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the private psychiatric hospital's licensed bed capacity;

(g) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

(2) Refunds. The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received the application but has not conducted an on-site survey or provided technical assistance, the department will refund two-thirds of the fees paid, less a fifty dollar processing fee.

(b) The department has received the application and has conducted an on-site survey or provided technical assistance, the department will refund one-third of the fees paid, less a fifty dollar processing fee.

(c) The department will not refund fees if:

(i) The department has performed more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, and the department has not issued the license because the applicant has failed to complete requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is ten dollars or less.

[Statutory Authority: RCW 43.70.250. WSR 19-16-049, § 246-322-990, filed 7/30/19, effective 10/1/19. Statutory Authority: RCW 70.41.080 and 71.12.485. WSR 17-18-109, § 246-322-990, filed 9/6/17, effective 11/30/17. Statutory Authority: RCW 43.70.250. WSR 07-17-174, § 246-322-990, filed 8/22/07, effective 9/22/07; WSR 05-18-073, § 246-322-990, filed 9/7/05, effective 10/8/05. Statutory Authority: RCW 43.70.250, 18.46.030, 43.70.110, 71.12.470. WSR 04-19-141, § 246-322-990, filed 9/22/04, effective 10/23/04. Statutory Authority: RCW 43.70.250 and 70.38.105(5). WSR 03-22-020, § 246-322-990, filed 10/27/03, effective 11/27/03. Statutory Authority: RCW 43.70.250. WSR 02-13-061, § 246-322-990, filed 6/14/02, effective 7/15/02. Statutory Authority: RCW 71.12.470, 43.70.110 and 43.70.250. WSR 01-15-092, § 246-322-990, filed 7/18/01, effective 8/18/01. Statutory Authority: RCW 43.70.250 and 43.20B.020. WSR 99-24-060, § 246-322-990, filed 11/29/99, effective 12/30/99. Statutory Authority: RCW 43.70.250, 43.70.110 and 43.20B.020. WSR 95-12-097, § 246-322-990, filed 6/7/95, effective 7/8/95. Statutory Authority: RCW 43.70.250. WSR 92-12-028 (Order 273), § 246-322-990, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 43.70.040. WSR 91-02-050 (Order 122), § 246-322-990, filed 12/27/90, effective 1/31/91.]

WSR 21-04-125
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
[Filed February 2, 2021, 9:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-12-071.

Title of Rule and Other Identifying Information: WAC 363-116-081

Rest period.

Hearing Location(s): On March 18, 2021, at 10:00 a.m., virtual public meeting via Microsoft Teams. Please contact BeverJ@wsdot.wa.gov or 206-515-3887 to request a link.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Sheri J. Tonn, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, email BeverJ@wsdot.wa.gov, fax 206-515-3906, by March 10, 2021.

Assistance for Persons with Disabilities: Contact Jolene Hamel, phone 206-515-3904, fax 206-515-3906, email HamelJ@wsdot.wa.gov, by March 15, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes to this rule regarding mandatory rest periods for pilots is necessary due to the passage of HB 1647 during the 2019 regular legislative session, which amended RCW 88.16.103 Mandatory rest periods for pilots and became effective July 28, 2019. The existing rule refers to RCW 88.16.103 for explanation of the board of pilotage commissioners' (BPC) regulations regarding rest rules. This new rule will codify that pilots have a mandatory rest period of at least ten hours with an opportunity for eight hours of uninterrupted sleep after the completion of an assignment. In addition, this rule defines multiple assignments within a harbor area. The rule also codifies and defines the existing practice of Puget Sound pilots to receive a mandatory rest period after three consecutive night assignments.

Reasons Supporting Proposal: It is the intent of BPC to align the language of the rule with that of the statute and to further define terms in the statute per the recommendation of BPC's pilot safety committee.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: Chapter 88.16 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: BPC's fatigue management committee and pilot safety committee, both comprised of pilots and industry stakeholders, as well as BPC members, provided recommendations for both the agency request legislation that led to the adoption of HB 1647 and the recommendations for the rule language.

Name of Proponent: BPC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: BPC, 2901 3rd Avenue, Seattle, WA 98121, 206-515-3904.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. BPC is not a listed agency in RCW 34.05.328 (5) (a) (i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

February 2, 2021
Jaimie C. Bever
Executive Director

OTS-2907.1

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

WAC 363-116-081 Rest period. (1) Pilots shall observe rest period requirements as set out in RCW 88.16.103 as now or hereafter amended. (~~For purposes of applying this rule an assignment shall begin at the pilot's dispatched departure time if the pilot is on board, regardless of when the ship actually sails. The assignment ends when the pilot leaves the vessel. Travel time shall not be included in an assignment.~~) Pilots shall have a mandatory rest period of at least ten hours with an opportunity for eight hours of uninterrupted sleep after completion of an assignment; excluding multiple assignments within a harbor area, provided the combined total duration of assignment time does not exceed thirteen hours.

(2) An assignment is a billable pilotage service, including cancellations and ship movements, regardless of duration

(3) An assignment begins at call time and ends at check-in time and includes preparation time and travel time to and from the ship in addition to bridge time. Call time allows one to two hours of preparation before the start of travel time to the ship. Check-in time occurs when travel time from the ship is completed. In the Puget Sound Pilotage district travel times are documented in the Puget Sound pilots operating rules and may be reviewed by the board from time to time.

(4) When there are multiple assignments within a harbor area (multiple harbor shifts), call time is before the first harbor shift and check-in time occurs when the travel time has been completed after the final harbor shift. Harbor area geographic definitions outlined by the utilities and transportation commission are used to distinguish harbor shifts from other ship moves.

(5) Pilots shall not complete more than three consecutive night assignments, a night assignment being one in which any part occurs between 0100 and 0459 hours. After three consecutive night assignments, pilots shall have a mandatory rest period of at least twelve hours, including at least one period between 2000 and 0800 hours.

[WSR 97-08-042, recodified as § 363-116-081, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. WSR 79-05-023 (Order 79-2, Resolution No. 79-2), § 296-116-081, filed 4/17/79; Order 73-6, § 296-116-081, filed 5/11/73.]

WSR 21-04-132

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed February 2, 2021, 11:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-14-121.

Title of Rule and Other Identifying Information: Chapter 246-341 WAC, Behavioral health services administrative requirements, the department of health (DOH) is proposing to update the chapter of rules for licensed and certified behavioral health agencies that includes (1) changes to align with legislation; (2) changes related to federal requirements; (3) requests from partners and interested parties for clarification; and (4) areas of clean up that have been identified since DOH began regulating behavioral health agencies in 2018. DOH is proposing to change the chapter title to "Behavioral health licensing and certification requirements."

Hearing Location(s): On March 9, 2021, at 9:30 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, DOH will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A virtual public hearing, without physical meeting space, will be held instead. We invite you to participate in our public rules hearing using your computer, tablet or smartphone. Please register at <https://attendee.gotowebinar.com/register/5639101981853076238>. After registering, you will receive a confirmation email containing information about joining the webinar; or participants can use their telephone or computer mic and speakers (VoIP). United States +1(631)992-3221.

Date of Intended Adoption: March 16, 2021.

Submit Written Comments to: Stephanie Vaughn, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2321, by March 9, 2021.

Assistance for Persons with Disabilities: Contact Stephanie Vaughn, phone 360-236-4617, TTY 711, email stephanie.vaughn@doh.wa.gov, by March 2, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DOH is proposing to amend chapter 246-341 WAC to revise the rules regulating licensure and certification of behavioral health services, implement changes enacted by the legislature, make changes related to responding to a public health emergency, and incorporate recommendations of behavioral health partners and interested parties for clarification. An example of these considerations is addressing new RCW 18.205.160 (from ESHB 1768, chapter 444, Laws of 2019), which requires DOH to amend WAC 246-341-0515 to reflect the new cooccurring disorder specialist enhancement credential, as well as reflecting the new terminology for substance use disorder professional. This proposal also incorporates the Special Terms and Conditions of the 1115 Medicaid Transformation Waiver signed by the health care authority and the federal Centers for Medicare and Medicaid regarding medication assisted treatment and care coordination in agencies that provide residential substance use disorder services, which are also reflected in statutory changes made by SSB 5380 (chapter 314, Laws of 2019). Additionally, the department has worked with partners and interested parties to specifically examine the rules and identify where changes could be made to align with RCW 71.24.870 (from E2SHB 1819, chapter 207, Laws of 2017) and RCW 71.24.872 (from E2SSB 5432, chapter 325, Laws of 2019) which direct the department to reduce

duplicative, inefficient, and burdensome regulations for behavioral health agencies where possible.

Reasons Supporting Proposal: In 2018, the legislature transferred authority and responsibility for behavioral health agency licensing and certification from the department of social and health services (DSHS) to DOH. Over the last two years, DOH has become aware of a number of policy issues that must be addressed to bring these regulations up to date and in alignment with DOH's mission.

Chapter 246-341 WAC implements three main statutes that have been significantly amended since DOH assumed responsibility for these rules:

- Chapter 71.24 RCW governs community behavioral health services and agencies and was significantly amended by E2SSB 5432 (chapter 325, Laws of 2019).
- Chapter 71.05 RCW governs involuntary behavioral health services for adults and was significantly amended by 2E2SSB 5720 (chapter 302, Laws of 2020) and also changed by several other bills including 2SHB 1907 (chapter 446, Laws of 2019).
- Chapter 71.34 RCW governs behavioral health services for minors and was significantly amended by several recent bills, including E2SHB 1874 (chapter 381, Laws of 2018 [2019]) and SHB 2883 (chapter 185, Laws of 2020).

DOH has published several guidance and interpretive statements to temporarily address several of the policy issues. DOH examined and discussed the rules with interested parties and partners to incorporate the statements into permanent rules, consider what changes might be made to the licensure and certification of services in behavioral health facilities, and to consider incorporating and implementing other recommendations and legislative directives.

DOH held weekly rules workshops over four months in the summer and autumn of 2020 that was open to all partners and interested parties where every section in this WAC chapter was researched and scrutinized. This draft represents the collective best efforts to improve these regulations and take the next step forward in improving the delivery of behavioral health services in the state of Washington.

Statutory Authority for Adoption: RCW 71.24.037, 71.05 560, 71.34.380, 18.205.160.

Statute Being Implemented: RCW 71.24.037; chapters 71.24, 71.05, and 71.34 RCW.

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

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Julie Tomaro, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-2937.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephanie Vaughn, P.O. Box 47843, Olympia, WA 98504-7843, phone 360-236-4617, fax 360-236-2321, TTY 711, email stephanie.vaughn@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The department worked with stakeholders to determine that the relevant portions of this rule making constitute no new significant costs to small businesses.

February 2, 2021
 Jessica Todorovich
 Chief of Staff
 Umair A. Shah, MD, MPH
 Secretary

OTS-2836.2

Chapter 246-341 WAC
BEHAVIORAL HEALTH ((SERVICES ADMINISTRATIVE)) LICENSING AND CERTIFICATION REQUIREMENTS

((SECTION ONE)) BEHAVIORAL HEALTH SERVICES—PURPOSE AND SCOPE

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0100 Behavioral health services—Purpose and scope.

(1) ~~((The rules in)) This chapter ((provide a single set of rules)) establishes state minimum standards for licensed behavioral health agencies ((to follow that provide any one or more of the following behavioral health services:~~

~~(a) Mental health services;~~

~~(b) Substance use disorder services;~~

~~(c) Co-occurring services (services to individuals with co-existing mental health and substance use disorders); and~~

~~(d) Problem and pathological gambling;~~

~~(2) These rules establish the following for agencies that provide behavioral health services:~~

~~(a) Licensure and certification requirements;~~

~~(b) Agency administrative requirements;~~

~~(c) Agency personnel requirements; and~~

~~(d) Agency clinical policies and procedures)).~~

(2) This chapter does not apply to state psychiatric hospitals as defined in chapter 72.23 RCW or facilities owned or operated by the department of veterans affairs or other agencies of the United States government.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0100, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 20-07-091, filed 3/17/20, effective 5/1/20)

WAC 246-341-0110 Behavioral health services—Available certifications. A behavioral health agency licensed by the department may become certified to provide one or more of the mental health, substance use disorder, and problem gambling and (~~pathological~~) gambling disorder services listed below:

- (1) Outpatient and recovery support:
 - (a) Individual mental health treatment services;
 - (b) Brief mental health intervention treatment services;
 - (c) Group mental health therapy services;
 - (d) Family therapy mental health services;
 - (e) Rehabilitative case management mental health services;
 - (f) Psychiatric medication (~~mental health services and medication support~~) management services;
 - (g) Medication monitoring services;
 - (h) Day support mental health services;
 - (~~h~~) ~~Mental health outpatient services provided in a residential treatment facility (RTF);~~)
 - (i) Recovery support: Supported employment mental health services;
 - (j) Recovery support: Supported employment substance use disorder services;
 - (k) Recovery support: Supportive housing mental health services;
 - (l) Recovery support: Supportive housing substance use disorder services;
 - (m) Recovery support: Peer support mental health services;
 - (n) Recovery support: Peer support substance use disorder services;
 - (o) Recovery support: Mental health peer respite center;
 - (~~o~~) ~~Recovery support: Wraparound facilitation mental health services~~;
 - (~~p~~) ~~Recovery support: Applied behavior analysis (ABA) mental health services~~;
 - (~~q~~) (p) Consumer-run recovery support: Clubhouse mental health services;
 - (~~r~~) (q) Substance use disorder level one outpatient services;
 - (~~s~~) (r) Substance use disorder level two intensive outpatient services;
 - (~~t~~) (s) Substance use disorder assessment only services;
 - (~~u~~) (t) Substance use disorder alcohol and drug information school services;
 - (~~v~~) (u) Substance use disorder information and crisis services;
 - (~~w~~) (v) Substance use disorder emergency service patrol services;
 - (~~x~~) ~~Substance use disorder screening and brief intervention services; and~~
 - (~~y~~) (w) Problem gambling and (~~pathological~~) gambling disorder services.
- (2) Involuntary and court-ordered outpatient services:
 - (a) Less restrictive alternative (LRA) or conditional release support behavioral health services;
 - (b) (~~Emergency involuntary detention~~) Designated crisis responder (DCR) (~~mental health and substance use disorder~~) services;

apply throughout this chapter unless the context clearly requires otherwise.

~~(("Absentee coverage" means the temporary replacement a clubhouse provides for the clubhouse member who is currently employed in a time-limited, part-time community job managed by the clubhouse.))~~

(1) "Administrator" means the designated person responsible for the day-to-day operation of either the licensed ((treatment)) behavioral health agency, or certified treatment service, or both.

(2) "Adult" means an individual eighteen years of age or older. For purposes of the medicaid program, adult means an individual twenty-one years of age or older.

(3) "ASAM criteria" means admission, continued service, transfer, and discharge criteria for the treatment of substance use disorders as published by the American Society of Addiction Medicine (ASAM).

(4) "Assessment" means the process of obtaining all pertinent bio-psychosocial information, as identified by the individual, and family and collateral sources, for determining a diagnosis and to plan individualized services and supports.

~~(("Authority" means the Washington state health care authority.~~

~~"Background check" means a search for criminal history record information that includes nonconviction data. A background check may include a national fingerprint-based background check, including a Federal Bureau of Investigation criminal history search.))~~

(5) "Behavioral health" means the prevention, treatment of, and recovery from any or all of the following disorders: Substance use disorders, mental health disorders, co-occurring disorders, or problem gambling and ((pathological)) gambling disorders.

(6) "Behavioral health agency," "licensed behavioral health agency," or "agency" means an entity licensed by the department to provide behavioral health services under chapter 71.24, 71.05, or 71.34 RCW.

~~(("Behavioral health organization" or "BHO" means any county authority or group of county authorities or other entity recognized by the health care authority in contract in a defined region.))~~

(7) "Branch site" means a physically separate licensed site, governed by ((a)) the same parent organization as the main site, where qualified staff provides certified treatment services.

(8) "Campus" means an area where all of the agency's buildings are located on contiguous properties undivided by:

(a) Public streets, not including alleyways used primarily for delivery services or parking; or

(b) Other land that is not owned and maintained by the owners of the property on which the agency is located.

(9) "Care coordination" or "coordination of care" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs of an individual. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies, organizing, facilitating and participating in team meetings, and providing for continuity of care by creating linkages to and managing transitions between levels of care.

(10) "Certified" or "certification" means the status given by the department that authorizes the agency to provide specific substance use disorder, mental health, and problem gambling and ((pathological)) gambling disorder program-specific services.

~~(("Certified problem gambling counselor" is an individual certified gambling counselor (WSCGC) or a nationally certified gambling counselor (NCGC), certified by the Washington State Gambling Counselor~~

~~Certification Committee or the International Gambling Counselor Certification Board to provide problem and pathological gambling treatment services.~~

~~"Change in ownership" means one of the following:~~

~~(a) The ownership of a licensed behavioral health agency changes from one distinct legal owner to another distinct legal owner;~~

~~(b) The type of business changes from one type to another, such as, from a sole proprietorship to a corporation; or~~

~~(c) The current ownership takes on a new owner of five per cent or more of the organizational assets.~~

~~"Chemical dependency professional" or "CDP" means a person credentialed by the department as a chemical dependency professional (CDP) under chapter 246-811 WAC.)~~

~~(11) "Child," "minor," and "youth" mean:~~

~~(a) An individual under the age of eighteen years; or~~

~~(b) An individual age eighteen to twenty-one years who is eligible to receive and who elects to receive an early and periodic screening, diagnostic, and treatment (EPSDT) medicaid service. An individual age eighteen to twenty-one years who receives EPSDT services is not considered a "child" for any other purpose.~~

~~("Child mental health specialist" means a mental health professional with the following education and experience:~~

~~(a) A minimum of one hundred actual hours (not quarter or semester hours) of special training in child development and the treatment of children with serious emotional disturbance and their families; and~~

~~(b) The equivalent of one year of full-time experience in the treatment of seriously emotionally disturbed children and their families under the supervision of a child mental health specialist.)~~

~~(12) "Clinical record" means either a paper, or electronic file, or both that is maintained by the behavioral health agency and contains pertinent psychological, medical, and clinical information for each individual served.~~

~~(13) "Clinical supervision" means regular and periodic activities performed by a mental health professional ((licensed or certified)), co-occurring disorder specialist, or substance use disorder professional licensed, certified, or registered under Title 18 RCW ((practicing within their scope of practice)). Clinical supervision may include ((s)) review of assessment, diagnostic formulation, ((treatment planning)) individual service plan development, progress toward completion of care, identification of barriers to care, continuation of services, authorization of care, and the direct observation of the delivery of clinical care. In the context of this chapter, clinical supervision is separate from clinical supervision required for purposes of obtaining supervised hours toward fulfilling requirements related to professional licensure under Title 18 RCW.~~

~~("Clubhouse" means a community-based, recovery-focused program designed to support individuals living with the effects of mental illness, through employment, shared contributions, and relationship building. A clubhouse operates under the fundamental principle that everyone has the potential to make productive contributions by focusing on the strengths, talents, and abilities of all members and fostering a sense of community and partnership.~~

~~"Community mental health agency" means the same as "behavioral health agency."~~

~~"Community relations plan" means a plan to minimize the impact of an opioid treatment program as defined by the Center for Substance~~

~~Abuse Guidelines for the Accreditation of Opioid Treatment Programs, section 2.C.(4).~~

~~"Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum:~~

~~(a) Assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week;~~

~~(b) Prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law;~~

~~(c) Screening for patients being considered for admission to residential services;~~

~~(d) Diagnosis and treatment for children who are mentally or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment (EPSDT) program;~~

~~(e) Investigation, legal, and other nonresidential services under chapter 71.05 RCW;~~

~~(f) Case management services;~~

~~(g) Psychiatric treatment including medication supervision;~~

~~(h) Counseling;~~

~~(i) Psychotherapy;~~

~~(j) Assuring transfer of relevant patient information between service providers;~~

~~(k) Recovery services; and~~

~~(l) Other services determined by behavioral health organizations.)~~

~~(14) "Complaint" means an alleged violation of licensing or certification requirements under chapters 71.05, 71.12, 71.24, 71.34 RCW, and this chapter, which has been authorized by the department for investigation.~~

~~(15) "Consent" means agreement given by an individual after ((the person is)) being provided with a description of the nature, character, anticipated results of proposed treatments and the recognized serious possible risks, complications, and anticipated benefits, including alternatives and nontreatment, that must be provided in a terminology that the ((person)) individual can reasonably be expected to understand. Consent can be obtained from an individual's parent or legal representative, when applicable.~~

~~(16) "Consultation" means the clinical review and development of recommendations by persons with appropriate knowledge and experience regarding activities or decisions of clinical staff, contracted employees, volunteers, or students.~~

~~(17) "Co-occurring disorder" means the coexistence of both a mental health and a substance use disorder. Co-occurring treatment is a unified treatment approach intended to treat both disorders within the context of a primary treatment relationship or treatment setting.~~

~~("Crisis" means an actual or perceived urgent or emergent situation that occurs when an individual's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual's mental or physical health, or to prevent the need for referral to a significantly higher level of care.~~

~~"Critical incident" means any one of the following events:~~

~~(a) Any death, serious injury, or sexual assault that occurs at an agency that is licensed by the department;~~

~~(b) Alleged abuse or neglect of an individual receiving services, that is of a serious or emergency nature, by an employee, volunteer, licensee, contractor, or another individual receiving services;~~

~~(c) A natural disaster, such as an earthquake, volcanic eruption, tsunami, urban fire, flood, or outbreak of communicable disease that presents substantial threat to facility operation or client safety;~~

~~(d) A bomb threat;~~

~~(e) Theft or loss of data in any form regarding an individual receiving services, such as a missing or stolen computer, or a missing or stolen computer disc or flash drive;~~

~~(f) Suicide attempt at the facility;~~

~~(g) An error in program-administered medication at an outpatient facility that results in adverse effects for the individual and requires urgent medical intervention; and~~

~~(h) Any media event regarding an individual receiving services, or regarding a staff member or owner(s) of the agency.)~~

(18) "Cultural competence" or "culturally competent" means the ability to recognize and respond to health-related beliefs and cultural values, disease incidence and prevalence, and treatment efficacy. Examples of culturally competent care include striving to overcome cultural, language, and communications barriers, providing an environment in which individuals from diverse cultural backgrounds feel comfortable discussing their cultural health beliefs and practices in the context of negotiating treatment options, encouraging individuals to express their spiritual beliefs and cultural practices, and being familiar with and respectful of various traditional healing systems and beliefs and, where appropriate, integrating these approaches into treatment plans.

(19) "Deemed" means a status that ((may be)) is given to a licensed behavioral health agency as a result of the agency receiving accreditation by a recognized behavioral health accrediting body which has a current agreement with the department.

~~(("Department" means the Washington state department of health.~~

~~"Designated crisis responder" or "DCR" means a mental health professional appointed by the county or the BHO who is authorized to conduct investigations, detain persons up to seventy-two hours at the proper facility, and carry out the other functions identified in chapters 71.05 and 71.34 RCW. To qualify as a designated crisis responder, a person must complete substance use disorder training specific to the duties of a designated crisis responder.)~~

(20) "Disability" means a physical or mental impairment that substantially limits one or more major life activities of the individual and the individual:

(a) Has a record of such an impairment; or

(b) Is regarded as having such impairment.

~~(("Early and periodic screening, diagnosis and treatment" or "EPSDT" means a comprehensive child health medicaid program that entitles individuals age twenty and younger to preventive care and treatment services. These services are outlined in chapter 182-534 WAC.~~

~~"Governing body" means the entity with legal authority and responsibility for the operation of the behavioral health agency, to include its officers, board of directors or the trustees of a corporation or limited liability company.~~

~~"Grievance" means the same as defined in WAC 182-538D-0655.~~

~~"HIV/AIDS brief risk intervention" means a face-to-face interview with an individual to help the individual assess personal risk for~~

HIV/AIDS infection and discuss methods to reduce infection transmission.

"Individual" means a person who applies for, is eligible for, or receives behavioral health services from an agency licensed by the department.

"Less restrictive alternative (LRA)" means court ordered outpatient treatment in a setting less restrictive than total confinement.)

(21) "Licensed" or "licensure" means the status given to behavioral health agencies by the department under its authority to license and certify mental health and substance use disorder programs under chapters 71.05, 71.12, 71.34, and 71.24 RCW and its authority to certify problem gambling and ((pathological)) gambling disorder treatment programs under RCW 43.20A.890.

((("Medical necessity" or "medically necessary" is a term for describing a required service that is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions in the recipient that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. Course of treatment may include mere observation or, where appropriate, no treatment at all.))

(22) "Medical practitioner" means a physician licensed under chapter 18.57 or 18.71 RCW, advance registered nurse practitioner (ARNP) licensed under chapter 18.79 RCW, or ((certified)) physician assistant licensed under chapter 18.71A or 18.57A RCW. ((An ARNP and a midwife with prescriptive authority may perform practitioner functions related only to specific specialty services.

"Medication administration" means the direct application of a medication or device by ingestion, inhalation, injection or any other means, whether self-administered by a resident, or administered by a guardian (for a minor), or an authorized health care provider.))

(23) "Mental health disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

(24) "Mental health professional" or "MHP" means ((a designation given by the department to an agency staff member or an attestation by the licensed behavioral health agency that the person meets the following:

(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), psychiatric nurse, or social worker as defined in chapters 71.05 and 71.34 RCW;

(b) A person who is licensed by the department as a mental health counselor or mental health counselor associate, marriage and family therapist, or marriage and family therapist associate;

(c) A person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university who has at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, experience that was gained under the supervision of a mental health professional recognized by the department or attested to by the licensed behavioral health agency;

(d) A person who meets the waiver criteria of RCW 71.24.260, and the waiver was granted prior to 1986; or

~~(e) A person who had an approved waiver to perform the duties of a mental health professional (MHP), that was requested by the behavioral health organization (BHO) and granted by the mental health division prior to July 1, 2001.~~

~~"Minor" means the same as "child."~~

~~"Off-site" means the provision of services by a provider from a licensed behavioral health agency at a location where the assessment or treatment is not the primary purpose of the site, such as in schools, hospitals, long-term care facilities, correctional facilities, an individual's residence, the community, or housing provided by or under an agreement with the agency.~~

~~"Outpatient services" means behavioral health treatment services provided to an individual in a nonresidential setting. A residential treatment facility (RTF) may become certified to provide outpatient services.~~

~~"Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment) a person who meets the qualifications in WAC 246-341-0515(5).~~

~~(25) "Peer counselor" means the same as defined in WAC 182-538D-0200.~~

~~("Probation" means a licensing or certification status resulting from a finding of deficiencies that requires immediate corrective action to maintain licensure or certification.)~~

~~(26) "Problem gambling and ((pathological)) gambling disorder" means one or more of the following disorders:~~

~~(a) "((Pathological)) Gambling disorder" means a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences;~~

~~(b) "Problem gambling" is an earlier stage of ((pathological)) gambling disorder that compromises, disrupts, or damages family or personal relationships or vocational pursuits.~~

~~(27) "Progress notes" means permanent written or electronic record of services and supports provided to an individual documenting the individual's participation in, and response to, treatment, progress in recovery, and progress toward intended outcomes.~~

~~("Recovery" means the same as defined in RCW 71.24.025.~~

~~"Relocation" means a physical change in location from one address to another.~~

~~"Remodeling" means expanding existing office space to additional office space at the same address, or remodeling interior walls and space within existing office space to a degree that accessibility to or within the facility is impacted.)~~

~~(28) "Secretary" means the secretary of the department of health.~~

~~("Service area" means the geographic area covered by each behavioral health organization (BHO) for which it is responsible.~~

~~"Short-term facility" means a facility licensed and certified by the department of health under RCW 71.24.035 which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization. Length of stay in a short-term facility is less than fourteen days from the day of admission.)~~

~~(29) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement~~

((this)) chapters 71.05, 71.24, and 71.34 RCW for delivery of behavioral health services.

~~(("Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.))~~

(30) "Substance use disorder professional" or "SUDP" means a person credentialed by the department as a substance use disorder professional (SUDP) under chapter 18.205 RCW.

(31) "Substance use disorder professional trainee" or "SUDPT" means a person credentialed by the department as a substance use disorder professional trainee (SUDPT) under chapter 18.205 RCW.

(32) "Summary suspension" means the immediate suspension of either a facility's license or program-specific certification or both by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department.

(33) "Supervision" means the regular monitoring of the administrative, clinical, or clerical work performance of a staff member, trainee, student, volunteer, or employee on contract by a person with the authority to give direction and require change.

(34) "Suspend" means termination of a behavioral health agency's license or program specific certification to provide behavioral health treatment program service for a specified period or until specific conditions have been met and the department notifies the agency of the program's reinstatement of license or certification.

~~(("Triage facility" means a short-term facility or a portion of a facility licensed and certified by the department under RCW 71.24.035 that is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual. A triage facility must meet department residential treatment facility standards and may be structured as either a voluntary or involuntary placement facility or both.~~

~~"Triage involuntary placement facility" means a triage facility that has elected to operate as an involuntary facility and may, at the direction of a peace officer, hold an individual for up to twelve hours. A peace officer or designated crisis responder may take or cause the person to be taken into custody and immediately delivered to the triage facility. The facility may ask for an involuntarily admitted individual to be assessed by a mental health professional for potential for voluntary admission. The individual has to agree in writing to the conditions of the voluntary admission.~~

~~"Triage voluntary placement facility" means a triage facility where the individual may elect to leave the facility of their own accord, at any time. A triage voluntary placement facility may only accept voluntary admissions.~~

~~"Tribal authority" means, for the purposes of behavioral health organizations and RCW 71.24.300 only, the federally recognized Indian tribes and the major Indian organizations recognized by the secretary as long as these organizations do not have a financial relationship with any behavioral health organization that would present a conflict of interest.~~

~~"Vulnerable adult" has the same meaning as defined in chapter 74.34 RCW.~~

~~"Withdrawal management" means services provided during the initial period of care and treatment to an individual intoxicated or incapacitated by substance use.~~

~~"Work-ordered day" means a model used to organize clubhouse activities during the clubhouse's normal working hours. Members and staff are organized into one or more work units which provide meaningful and engaging work essential to running the clubhouse. Activities include unit meetings, planning, organizing the work of the day, and performing the work that needs to be accomplished to keep the clubhouse functioning. Members and staff work side-by-side as colleagues. Members participate as they feel ready and according to their individual interests. While intended to provide members with working experience, work in the clubhouse is not intended to be job-specific training, and members are neither paid for clubhouse work nor provided artificial rewards. Work-ordered day does not include medication clinics, day treatment, or other therapy programs.~~

~~"Youth" means the same as "child.")~~)

[Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-0200, filed 3/17/20, effective 5/1/20. Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0200, filed 4/16/19, effective 5/17/19.]

~~((SECTION THREE—)) BEHAVIORAL HEALTH SERVICES—AGENCY LICENSURE AND CERTIFICATION~~

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0300 Agency licensure and certification—General information. The department licenses behavioral health agencies and certifies them to provide behavioral health treatment services. To ~~((gain))~~ obtain and maintain licensure and certification, an applicant must meet the requirements of this chapter, applicable local and state rules, and applicable state and federal statutes and regulations. In addition, the applicant must meet the applicable specific ~~((program))~~ service requirements for all behavioral health treatment services certified by the department.

~~((1))~~ An applicant currently accredited by a national accreditation agency recognized by and having a current agreement with the department may be eligible for licensing through deeming. See WAC ~~246-341-0310~~.

~~(2)~~ An agency must report to the department any changes that occur following the initial licensing or certification process. The department may request a copy of additional disclosure statements or background inquiries if there is reason to believe that offenses specified under RCW 43.43.830 have occurred since the original application was submitted.

~~(3)~~ The department may grant an exemption or waiver from compliance with specific licensing or program certification requirements if

~~the exemption does not violate an existing state, federal, or tribal law.~~

~~(a) To request an exemption to a rule in this chapter, the applicant must:~~

~~(i) Submit the request in writing to the department;~~

~~(ii) Assure the exemption request does not jeopardize the safety, health, or treatment of an individual; and~~

~~(iii) Assure the exemption request does not impede fair competition of another service agency.~~

~~(b) The department approves or denies an exemption request in writing and requires the agency to keep a copy of the decision.~~

~~(c) Appeal rights under WAC 246-341-0370 do not apply to exemption to rule decisions.~~

~~(4) In the event of an agency closure or the cancellation of a program-specific certification, the agency must provide each individual currently being served:~~

~~(a) Notice of the agency closure or program cancellation at least thirty days before the date of closure or program cancellation;~~

~~(b) Assistance with relocation; and~~

~~(c) Information on how to access records to which the individual is entitled.~~

~~(5) If an agency certified to provide any behavioral health service closes, the agency must ensure all individual clinical records are kept and managed for at least six years after the closure before destroying the records in a manner that preserves confidentiality. In addition:~~

~~(a) The closing agency must notify the department that the agency will do one of the following:~~

~~(i) Continue to retain and manage all individual clinical records; or~~

~~(ii) Arrange for the continued storage and management of all individual clinical records.~~

~~(b) The closing agency must notify the department in writing and include the name of the licensed agency or entity storing and managing the records, provide the method of contact, such as a telephone number, electronic address, or both, and provide the mailing and street address where the records will be stored.~~

~~(c) When a closing agency that has provided substance use disorder services arranges for the continued storage and management of clinical records by another entity, the closing agency must enter into a specific qualified services organization agreement with a department licensed agency or other entity. See 42 C.F.R. Part 2, Subpart B.~~

~~(d) When any agency or entity storing and maintaining individual clinical records receives an authorized request for a record, the record must be provided to the requester within a reasonable period of time.) The following licensure process in this section does not apply to a tribe that is licensed or seeking licensure via attestation as described in WAC 246-341-0367.~~

(1) Initial licensure of a behavioral health agency - Main site. The applicant shall submit a licensing application to the department that is signed by the agency's designated official. The application must include the following:

(a) The physical address of the agency;

(b) A list of the specific services for which the applicant is seeking certification;

(c) A statement assuring the location where the services will be provided meets the Americans with Disabilities Act (ADA) standards and

that any agency-operated facility where behavioral health services will be provided is:

(i) Suitable for the purposes intended, including having adequate space for private personal consultation with an individual and clinical record storage that adheres to confidentiality requirements;

(ii) Not a personal residence; and

(iii) Approved as meeting all local and state building and safety requirements, as applicable.

(d) Payment of associated fees according to WAC 246-341-0365;

(e) A copy of the applicant's master business license that authorizes the organization to do business in Washington state;

(f) A copy of the disclosure statement and report of findings from a background check of the administrator completed within the previous three months of the application date; and

(g) A copy of the policies and procedures specific to the agency and the services for which the applicant is seeking certification that address all of the applicable requirements of this chapter.

(2) The department may issue a single agency license when the applicant identifies behavioral health treatment services will be provided in multiple buildings and either:

(a) The applicant operates the multiple buildings on the same campus as a single integrated system with governance by a single authority or body over all staff and buildings; or

(b) All behavioral health treatment services will be provided in buildings covered under a single hospital license.

(3) Initial licensure of a behavioral health agency - Branch site. To add a branch site, an existing behavioral health agency shall meet the application requirements in subsection (1)(a) through (c) of this section and submit to the department:

(a) A written declaration that a current copy of agency policies and procedures that address all of the applicable requirements of this chapter are accessible to the branch site;

(b) A copy of policies and procedures for any behavioral health service that is unique to the branch site location, if applicable; and

(c) A copy of the disclosure statement and report of findings from a background check of the administrator completed within the previous three months of the application date, if the administrator of the branch site is different than the administrator of the main site location.

(4) License renewal.

(a) To renew a main site or branch site license and certification, an agency shall submit to the department a renewal request signed by the agency's designated official. The renewal request must:

(i) Be received by the department before the expiration date of the agency's current license; and

(ii) Include full payment of the specific renewal fee according to WAC 246-341-0365.

(b) The department shall renew an agency's main site or branch site license if all the requirements for renewal are met and the renewal request is received before the expiration date of the agency's current license.

(5) Amending a license. A license amendment is required when there is a change in the administrator, when adding or removing a service, or when closing a location. To amend a license the agency shall submit to the department a licensing application requesting the amendment that is signed by the agency's designated official. The ap-

plication process shall include the following requirements as applicable to the amendment being requested:

(a) Change of the administrator. The application must include a copy of the disclosure statement and report of findings from a background check of the new administrator completed within the previous three months of the application date and within thirty days of the change;

(b) Adding a service. The application must include:

(i) The physical address or addresses of the agency-operated facility or facilities where the new service(s) will be provided;

(ii) A copy of the agency's policies and procedures relating to the new service(s); and

(iii) Payment of fees according to WAC 246-341-0365.

(c) Canceling a service.

(i) The agency must provide notice to individuals who receive the service(s) to be canceled. The notice shall be provided at least thirty days before the service(s) are canceled and the agency must assist individuals in accessing services at another location.

(ii) The application must include the physical address or addresses of the agency-operated facility or facilities where the service(s) will no longer be provided.

(d) Closing a location.

(i) The application must include the name of the licensed agency or entity storing and managing the records, including:

(A) The method of contact, such as a telephone number, electronic address, or both; and

(B) The mailing and street address where the records will be stored.

(ii) When a closing agency that has provided substance use disorder services arranges for the continued storage and management of clinical records by a qualified service organization (QSO), the closing agency must enter into a written agreement with the QSO that meets the requirements of 42 C.F.R. Part 2.

(iii) In the event of an agency closure the agency must provide each individual currently being served:

(A) Notice of the agency closure at least thirty days before the date of closure;

(B) Assistance with accessing services at another location; and

(C) Information on how to access records to which the individual is entitled.

(6) Change of ownership.

(a) Change of ownership means one of the following:

(i) The ownership of a licensed behavioral health agency changes from one distinct legal owner to another distinct legal owner;

(ii) The type of business changes from one type to another, such as, from a sole proprietorship to a corporation; or

(iii) The current ownership takes on a new owner of five percent or more of the organizational assets.

(b) When a licensed behavioral health agency changes ownership, the department shall require:

(i) An initial license application from the new owner in accordance with subsection (1) of this section. The new agency must receive a new license under the new ownership before providing any behavioral health service; and

(ii) A statement from the current owner regarding the disposition and management of clinical records in accordance with applicable state and federal statutes and regulations.

(7) Change in location. A licensed behavioral health agency must receive a new license under the new location's address before providing any behavioral health service at that address. The agency shall submit to the department a licensing application requesting a change in location that is signed by the agency's designated official. The application must include:

(a) The new address;

(b) A statement assuring the location meets the Americans with Disabilities Act (ADA) standards and that any agency-operated facility where behavioral health services will be provided is:

(i) Suitable for the purposes intended, including having adequate space for private personal consultation with an individual and clinical record storage that adheres to confidentiality requirements;

(ii) Not a personal residence; and

(iii) Approved as meeting all local and state building and safety requirements, as applicable.

(c) Payment of initial licensure fees.

(8) Granting a license. A new or amended license or service-specific certification will not be granted to an agency until:

(a) All of the applicable notification and application requirements of this section are met;

(b) The department has reviewed and approved the policies and procedures for initial licensure or addition of new services;

(c) The department has conducted a review of any new main site or branch site locations and the agency corrects any noted deficiencies from those reviews within the agreed upon time frame; and

(d) The department determines the agency is in compliance with the licensure and service-specific certification standards.

(9) Effective date. An agency's license and any behavioral health services certification is effective for up to twelve months from the effective date, subject to the agency maintaining compliance with the minimum license and certification standards in this chapter.

(10) After receiving the license. The agency shall post the department-issued license and certification(s) in a conspicuous place on the agency's premises, and, if applicable, on the agency's branch site premises.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0300, filed 4/16/19, effective 5/17/19.]

NEW SECTION

WAC 246-341-0302 Agency licensure and certification—Exemptions and alternative means or methods. The department may grant an exemption or approve alternative means or methods of compliance from any part of this chapter so long as it does not violate an existing state or federal statute or regulation, or tribal law.

(1) An agency can request an exemption or alternative means or methods of compliance by submitting a written request to the department that includes:

(a) The specific section or sections of rules for which the exemption or alternative means or methods of compliance is requested;

(b) An explanation of the circumstances involved;

(c) A proposed alternative that would ensure the safety, health, and treatment of clients meeting the intent of the rule; and

(d) Any supporting research or other documentation, as applicable.

(2) The department shall approve or deny an exemption or alternative means or methods request in writing and the agency shall keep a copy of the decision for as long as the approval for exemption or alternative means or methods is in place.

(3) Appeal rights under WAC 246-341-0370 do not apply to exemption or alternative means or methods request decisions.

(4) The department may consider granting exemptions to a section or sections of this chapter during a governor declared state of emergency to ensure continued access to behavioral health treatment.

[]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0310 Agency licensure and certification—Deeming.

(1) ~~((If an agency is currently accredited))~~ The department shall deem an agency or branch site as meeting state minimum standards for licensing and certification described in this chapter as a result of accreditation by a national accreditation organization that is recognized by and has a current agreement with the department ~~((, the department must deem the agency to be in compliance with state standards for licensure and certification))~~.

(2) ~~((To be considered for deeming, an agency must submit a request to the department signed by the agency's administrator.))~~ To implement deemed status when opening a new main site agency, adding a new service to a main site agency, or adding a new service to a branch site location that is not currently offered at the main site agency, an agency must:

(a) Submit proof of accreditation for the services provided by the agency to the department; and

(b) Complete a department post-licensure on-site review.

(3) To implement deemed status when opening a new branch site location that is providing the same services as a deemed main site agency, or a service is being added to a branch site location that is a deemed service at a main site location, an agency must submit proof of accreditation for the services provided by the agency to the department.

(4) The department will not conduct an on-site review as part of the deeming process for tribal behavioral health agencies who seek licensure pursuant to WAC 246-341-0310.

(5) Deeming will be in accordance with the established written agreement between the ~~((accrediting agency))~~ national accreditation organization and the department.

~~((4))~~ (6) Specific licensing and certification requirements of any:

(a) State rule may only be waived through a deeming process consistent with the established written agreement between the ~~((accrediting agency))~~ recognized behavioral health accrediting body and the department.

(b) State or federal (~~law~~) statute or regulation will not be waived through a deeming process.

~~((5) An agency operating under a department-issued provisional license or provisional program-specific certification is not eligible for deeming.~~

~~(6) An) (7) A deemed main site agency~~(+)

~~(a) Must provide) or branch site must submit to the department a copy of any relevant reports ((regarding accreditation from the accrediting agency;~~

~~(b) Must meet the requirements in WAC 246-341-0325 and 246-341-0345 before adding any additional service(s); and~~

~~(c) Is not eligible for deeming until the service(s) has been reviewed by the accrediting agency.~~

~~(7) Any branch site added to an existing agency:~~

~~(a) Must meet the requirements in WAC 246-341-0340; and~~

~~(b) Is not eligible for deeming until the site has been reviewed by the accrediting agency) such as audits, findings, or documentation related to accreditation status.~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0310, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0320 Agency licensure and certification—On-site reviews and plans of correction. To obtain and maintain a department-issued license and to continue to provide department-certified behavioral health services, each agency is subject to an on-site review to determine if the agency is in compliance with the minimum licensure and certification standards.

(1) A department review team representative(s) conducts an entrance conference with the agency and an on-site review that may include:

(a) A review of:

(i) Agency policies and procedures;

(ii) Personnel records;

(iii) Clinical records;

(iv) Facility accessibility;

(v) The agency's internal quality management plan, process, or both, that demonstrates how the agency evaluates program effectiveness and individual participant satisfaction; and

(vi) Any other information, including the criteria in WAC 246-341-0335 (1) (b), that the department determines to be necessary to confirm compliance with the minimum standards of this chapter; and

(b) Interviews with:

(i) Individuals served by the agency; and

(ii) Agency staff members.

(2) The department review team representative(s) concludes an on-site review with an exit conference that includes a discussion of findings.

(3) The department will send the agency a statement of deficiencies report that will include instructions and time frames for submission of a plan of correction.

(4) The department requires the agency to correct the deficiencies listed on the plan of correction:

(a) By the negotiated time frame agreed upon by the agency and the department review team representative; or

(b) Immediately if the department determines health and safety concerns require immediate corrective action.

(5) On-site reviews of branch sites will occur at the same time as the main site review and take place at the main site location so long as the department can access the following either electronically or by hard copies brought to the main site agency location:

(a) Personnel records of employees hired since the previous review;

(b) A sample of individual clinical records that reflect the services provided at each branch site location; and

(c) Policies and procedures that are unique to the services provided at the branch site locations.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0320, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0335 Agency licensure and certification—Denials, suspensions, revocations, and penalties. (1) The department will deny issuing or renewing an agency's license or specific ((program)) service certification(s), place an agency on probation, or suspend, or revoke an agency's license or specific ((program)) service certification for any of the following reasons:

(a) The agency fails to meet requirements in this chapter.

(b) The agency fails to cooperate or disrupts department representatives during an on-site ((survey)) review or complaint investigation.

(c) The agency fails to assist the department in conducting individual interviews with either staff members or individuals receiving services, or both.

(d) The agency owner or governing person of a nonprofit corporation or agency administrator:

(i) Had a license or specific ((program)) service certification issued by the department subsequently denied, suspended, ((or)) revoked, or any other sanction placed upon a license;

(ii) Was convicted of child abuse or adjudicated as a perpetrator of a founded child protective services report;

(iii) Was convicted of abuse of a vulnerable adult or adjudicated as a perpetrator of substantiated abuse of a vulnerable adult. A vulnerable adult means the same as defined in chapter 74.34 RCW;

(iv) Obtained or attempted to obtain a health provider license, certification, or registration by fraudulent means or misrepresentation;

(v) Committed, permitted, aided or abetted the ((commission)) committing of an illegal act or unprofessional conduct as defined under RCW 18.130.180;

- (vi) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of (~~a patient~~) an individual or displayed acts of discrimination;
- (vii) Misappropriated patient (individual) property or resources;
- (viii) Failed to meet financial obligations or contracted service commitments that affect (~~patient~~) care of individuals;
- (ix) Has a history of noncompliance with state or federal rules in an agency with which the applicant has been affiliated;
- (x) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:
- (A) The submitted application or materials attached; or
- (B) Any matter under department investigation.
- (xi) Refused to allow the department access to view records, files, books, or portions of the premises relating to operation of the program;
- (xii) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;
- (xiii) Is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in transactions involving certain federal funds (this also applies to any person or business entity named in the agency's application for licensure or certification);
- (xiv) Does not meet background check requirements;
- (xv) Fails to provide satisfactory application materials; or
- (xvi) Advertises the agency as certified when licensing or certification has not been granted, or has been revoked or canceled.
- (e) The department determines there is imminent risk to health and safety.
- (f) The agency's licensure or specific (~~program~~) service certification is in probationary status and the agency fails to correct the noted health and safety deficiencies within the agreed-upon time frames.
- (2) The department may deny issuing or renewing an agency's license or specific (~~program~~) service certification(s), place an agency on probation, or suspend or revoke an agency's license or specific (~~program~~) service certification(s) for any of the following reasons:
- (a) The agency voluntarily cancels licensure or certification(s).
- (b) The agency fails to pay the required license or certification fees.
- (c) The agency stops providing the services for which the agency is certified.
- (d) The agency fails to notify the department before changing ownership.
- (e) The agency fails to notify the department before relocating its licensed location.
- (3) If the department (~~sends a written notice to deny~~) denies, suspends, revokes, or (~~modify the licensure~~) modifies the agency's license or specific service certification (~~status~~), the department will send a written notice including the reason(s) for the decision and the agency's right to appeal a department decision according to the provisions of RCW 43.70.115, chapter 34.05 RCW, and chapter 246-10 WAC.
- (4) The department may summarily suspend an agency's license or specific service certification(s) of a behavioral health service when an immediate danger to the public health, safety, or welfare requires emergency action.

(5) If an agency fails to comply with the requirements of this chapter, the department may:

(a) Assess fees to cover costs of added licensing and (~~(program-specific))~~ service-specific certification activities, including when the department determines a corrective action is required due to a complaint or incident investigation;

(b) Stop referral(s) of an individual who is a (~~(program))~~ service recipient of either a state or federally funded (~~(program))~~ service or both; and

(c) Notify the health care authority(~~(r))~~ and the (~~(behavioral health organization (BHO) and/or local media))~~ managed care organization of stopped referrals, suspensions, revocations, or nonrenewal of the agency's license or (~~(program-specific))~~ service-specific certification(s).

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0335, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0342 Agency licensure and certification—Off-site locations. (1) A behavioral health agency that provides outpatient services at an established off-site location(s) (~~(must))~~ shall:

(a) Maintain a list of each established off-site location where services are provided(~~(r))~~ on a regularly scheduled ongoing basis and (~~(b))~~ include, for each established off-site location:

(i) The name and address of the location the services are provided;

(ii) The primary purpose of the off-site location;

(iii) The service(s) provided; and

(iv) The date off-site services began at that location;

(b) Maintain an individual's confidentiality at the off-site location; and

(c) Securely transport confidential information and individual records between the licensed agency and the off-site location, if applicable.

(2) In addition to meeting the requirements in subsection (1) of this section, an agency providing ((in-home)) services to an individual in their place of residence or services in a public setting that is not an established off-site location where services are provided on a regularly scheduled ongoing basis must:

(a) Implement and maintain a written protocol of how services will be offered in a manner that promotes individual, staff member, and community safety; and

(b) For the purpose of emergency communication and as required by RCW 71.05.710, provide access to a wireless telephone or comparable device to any (~~(mental health professional who makes))~~ employee, contractor, student, or volunteer when making home visits to individuals.

(3) (~~An agency must:~~

~~(a) Maintain an individual's confidentiality at the off-site location;~~

~~(b) Securely transport confidential information and individual records between the licensed agency and the off-site location, if applicable;~~

~~(c) Ensure the type of behavioral health service offered at each off-site location is certified by the department; and~~

~~(d) Ensure the behavioral health services provided at off-site locations meet the requirements of all applicable local, state, and federal rules and laws.)~~ For the purposes of this section:

(a) "Off-site" means the provision of services by a licensed behavioral health agency at a location where the assessment or treatment is not the primary purpose of the site, such as in schools, hospitals, long-term care facilities, correctional facilities, an individual's residence, the community, or housing provided by or under an agreement with the agency.

(b) "Established off-site location" means a location that is regularly used and set up to provide services rather than a location used on an individual, case-by-case basis.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0342, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 20-07-091, filed 3/17/20, effective 5/1/20)

WAC 246-341-0365 Agency licensure and certification—Fee requirements. (1) Payment of licensing and specific (~~program~~) service certification fees required under this chapter must be included with the initial application, renewal application, or with requests for other services.

(2) Payment of fees must be made by check, bank draft, electronic transfer, or money order made payable to the department.

(3) The department may refund one-half of the application fee if an application is withdrawn before certification or denial.

(4) Fees will not be refunded when licensure or certification is denied, revoked, or suspended.

(5) The department charges the following fees for approved substance use disorder treatment programs:

Application fees for agency certification for approved substance use disorder treatment programs	
New agency application	\$1,000
Branch agency application	\$500
Application to add one or more services	\$200
Application to change ownership	\$500
Initial and annual certification fees for withdrawal management, residential, and nonresidential services	
Withdrawal management and residential services	\$100 per licensed bed, per year, for agencies not renewing certification through deeming

Application fees for agency certification for approved substance use disorder treatment programs	
	\$50 per licensed bed, per year, for agencies renewing certification through deeming per WAC 246-341-0310
Nonresidential services	\$750 per year for agencies not renewing certification through deeming
	\$200 per year for agencies certified through deeming per WAC 246-341-0310
Complaint/critical incident investigation fees	
All agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(6) (~~Agency providers~~) Agencies must annually complete a declaration form provided by the department to indicate information necessary for establishing fees and updating certification information. Required information includes, but is not limited to:

(a) The number of licensed withdrawal management and residential beds; and

(b) The agency provider's national accreditation status.

(7) The department charges the following fees for approved mental health treatment programs:

Initial licensing application fee for mental health treatment programs	
Licensing application fee	\$1,000 initial licensing fee
Initial and annual licensing fees for agencies not deemed	
Annual service hours provided:	Initial and annual licensing fees:
0-3,999	\$728
4,000-14,999	\$1,055
15,000-29,999	\$1,405
30,000-49,999	\$2,105
50,000 or more	\$2,575
Annual licensing fees for deemed agencies	
Deemed agencies licensed by the department	\$500 annual licensing fee
Complaint/critical incident investigation fee	
All residential and nonresidential agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(8) Agencies providing nonresidential mental health services must report the number of annual service hours provided (~~based on the department's current published "Service Encounter Reporting Instructions~~

for BHOs" and the "Consumer Information System (CIS) Data Dictionary for BHOs.").

(a) Existing licensed agencies must compute the annual service hours based on the most recent state fiscal year.

(b) Newly licensed agencies must compute the annual service hours by projecting the service hours for the first twelve months of operation.

(9) Agencies providing mental health peer respite services, intensive behavioral health treatment services, evaluation and treatment services, and competency evaluation and restoration treatment services must pay the following certification fees:

(a) Ninety dollars initial certification fee, per bed; and

(b) Ninety dollars annual certification fee, per bed.

[Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-0365, filed 3/17/20, effective 5/1/20. Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0365, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 20-02-116, filed 1/2/20, effective 1/2/20)

WAC 246-341-0367 Agency licensure and certification—Fee requirements for tribal attestations. (1) A tribe may attest that its behavioral health agency meets state minimum standards for a licensed or certified behavioral health agency, as described by the definition of "licensed or certified behavioral health agency" in RCW 71.24.025 (~~((26)(c))~~).

(2) A tribe that is pursuing attestation with the department must submit a two hundred sixty-one dollar administrative processing fee to the department for any new or renewed attestation.

[Statutory Authority: RCW 43.70.250, 43.70.280, 71.24.037, and 71.24.025. WSR 20-02-116, § 246-341-0367, filed 1/2/20, effective 1/2/20.]

~~((SECTION FOUR))~~ BEHAVIORAL HEALTH SERVICES—AGENCY ADMINISTRATION

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0400 Agency administration—Governing body requirements. A governing body is the entity with legal authority and responsibility for the operation of the behavioral health agency, to include its officers, board of directors or the trustees of a corporation or limited liability company. An agency's governing body is re-

sponsible for the conduct and quality of the behavioral health services provided. The agency's governing body must:

- (1) Assure there is an administrator responsible for the day-to-day operation of services;
- (2) Maintain a current job description for the administrator, including the administrator's authority and duties; and
- (3) Notify the department within thirty days of ~~((changes of))~~ changing the administrator.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0400, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0410 Agency administration—Administrator key responsibilities. (1) The agency administrator is responsible for the day-to-day operation of the agency's provision of certified behavioral health treatment services, including:

- (a) All administrative matters;
- (b) Individual care services; and
- (c) Meeting all applicable rules, policies, and ethical standards.

(2) The administrator may delegate the responsibilities assigned to them under this section to appropriate staff. The administrator retains overall responsibility for responsibilities delegated to appropriate staff.

(3) The administrator must delegate to a staff person the duty and responsibility to act on the administrator's behalf when the administrator is not on duty or on call.

(4) The administrator or their designee must ensure:

(a) ~~((Delegate to a staff person the duty and responsibility to act in the administrator's behalf when the administrator is not on duty or on call;~~

~~(b) Ensure))~~ Administrative, personnel, and clinical policies and procedures are adhered to and ((kept current to be in compliance)) compliant with the rules in this chapter((, as applicable)) and other applicable state and federal statutes and regulations;

~~((c) Employ))~~ (b) There is sufficient qualified personnel to provide adequate treatment services and facility security;

~~((d) Ensure))~~ (c) All persons providing clinical services are appropriately credentialed for ((their scope of practice as required by the department)) the clinical services they provide;

~~((e) Identify at least one person to be responsible for))~~ (d) Clinical supervision ((duties)) of all clinical services including clinical services provided by trainees, students, and volunteers;

~~((f) Ensure that))~~ (e) There is an up-to-date personnel file for each employee, trainee, student, volunteer, and for each contracted staff person who provides or supervises an individual's care; ((and

~~(g) Ensure that))~~ (f) Personnel records document that Washington state patrol background checks consistent with chapter 43.43 RCW have been completed for each employee in contact with individuals receiving services ((-

~~(3) The administrator must ensure the agency develops and maintains); and~~

(g) A written internal quality management ((plan/process)) plan, human resources plan or similarly specialized plan, as appropriate, is developed and maintained that:

~~((a))~~ (i) Addresses the clinical supervision and training of ((clinical)) staff providing clinical services;

~~((b))~~ (ii) Monitors compliance with the rules in this chapter, and other state and federal rules and laws that govern agency licensing and certification requirements; and

~~((e))~~ (iii) Continuously improves the quality of care in all of the following:

~~((i))~~ (A) Cultural competency that aligns with the agency's local community and individuals the agency serves or may serve;

~~((ii))~~ (B) Use of evidence based and promising practices; and

~~((iii))~~ (C) In response to((+)

~~(A) Critical incidents;~~

~~(B) Complaints; and~~

~~(C) Grievances and appeals))~~ critical incidents and substantiated complaints.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0410, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0420 Agency ((administration)) policies and procedures. Each agency licensed by the department to provide any behavioral health service must develop, implement, and maintain policies and procedures that address all of the applicable licensing and certification requirements of this chapter including administrative and personnel policies and procedures ~~((to meet the minimum requirements of this chapter))~~. ~~((The))~~ Administrative policies and procedures must demonstrate the following, as applicable:

(1) Ownership. Documentation of the agency's governing body, including a description of membership and authorities, and documentation of the agency's:

(a) Articles and certificate of incorporation and bylaws if the owner is a corporation;

(b) Partnership agreement if the owner is a partnership; or

(c) Sole proprietorship if one person is the owner.

(2) Licensure. A copy of the agency's master business license that authorizes the organization to do business in Washington state that lists all addresses where the entity performs services.

(3) Organizational description. An organizational description detailing all positions and associated licensure or certification, updated as needed.

(4) Agency staffing ~~((and supervision))~~. Documentation that shows the agency has ~~((staff members who))~~ adequate staffing to provide treatment in accordance ~~((to))~~ with regulations relevant to their specialty or specialties and registration, certification, licensing, and trainee or volunteer status.

(5) Interpreter services for individuals with limited-English proficiency (LEP) and individuals who have sensory disabilities. Documentation that demonstrates the agency's ability to provide or coordinate services for individuals with LEP and individuals who have sensory disabilities. This means:

(a) Certified interpreters or other interpreter services must be available for individuals with (~~limited-English-speaking proficiency~~) LEP and individuals who have sensory disabilities; or

(b) The agency must have the ability to effectively provide, coordinate or refer individuals in these populations for appropriate assessment or treatment.

(6) Reasonable access for individuals with disabilities. A description of how reasonable accommodations will be provided to individuals with disabilities.

(7) Nondiscrimination. A description of how the agency complies with all state and federal nondiscrimination laws, rules, and plans.

(8) (~~Fee schedules. A copy of the agency's current fee schedules for all services must be available on request.~~

~~(9) Funding options for treatment costs. A description of how the agency works with individuals to address the funding of an individual's treatment costs, including a mechanism to address changes in the individual's ability to pay.~~

~~(10)) State and federal rules on confidentiality. A description of how the agency implements state and federal rules on individuals' confidentiality consistent with the service or services being provided.~~

~~((11)) (9) Reporting and documentation of suspected abuse, neglect, or exploitation. A description how the agency directs staff to report and document suspected abuse, neglect, or exploitation of a child or vulnerable adult consistent with chapters 26.44 and 74.34 RCW.~~

~~((12)) (10) Reporting of impaired practitioners in accordance with chapters 18.130 RCW and 246-16 WAC.~~

~~(11) Protection of youth. Documentation of how the agency addresses compliance with ((program-specific)) service-specific rules and the protection of youth participating in group or residential treatment with adults and how the agency will follow the requirements of chapter 71.34 RCW when an adolescent seeks treatment for themselves and for family initiated treatment of an adolescent.~~

~~((13)) (12) Completing and submitting reports. A description of how the agency directs staff to(~~

~~(a)) complete and submit in a timely manner, all reports required by entities such as the courts, department of corrections, department of licensing, the department of social and health services, the health care authority, and the department of health(~~

~~(b) Include a copy of the report(s) in the clinical record and document the date submitted.~~

~~(14) Reporting the death of an individual seeking or receiving services. A description of how the agency directs staff to report to the department or behavioral health organization (BHO), as applicable, within one business day the death of any individual which occurs on the premises of a licensed agency).~~

~~((15)) (13) Reporting critical incidents. A description of how the agency directs staff to report to the department ((or BHO, as applicable,)) within ((one business day)) forty-eight hours any critical incident that occurs involving an individual, and actions taken as a~~

result of the incident. A critical incident is a serious or undesirable outcome that occurs in the agency including:

- (a) Allegations of abuse, neglect, or exploitation;
 - (b) Death, including death by suicide;
 - (c) Injuries resulting in admission to a hospital as an inpatient; or
 - (d) Outbreak of communicable disease within the agency.
- ~~((16))~~ (14) A smoking policy. Documentation that a smoking policy consistent with chapter 70.160 RCW (~~(smoking in public places)~~), and in compliance with applicable county ordinances, is in effect.
- ~~((17) Outpatient))~~ (15) Evacuation plan. Documentation that the residential or inpatient agency has an evacuation plan consistent with chapter 246-320, 246-322, 246-324, or 246-337 WAC. For a nonresidential agency, documentation of an evacuation plan for use in the event of a disaster or emergency that addresses:

- (a) Different types of disasters or emergencies;
 - (b) Placement of posters showing routes of exit;
 - (c) The need to mention evacuation routes at public meetings;
 - (d) Communication methods for individuals, staff, and visitors, including persons with a visual or hearing impairment or limitation;
 - (e) Evacuation of mobility impaired individuals; and
 - (f) Evacuation of children if child care is offered.
- ~~((18))~~ (16) Individual rights. A description of how the agency has individual participation rights and policies consistent with WAC 246-341-0600.

~~((19))~~ (17) Individual complaints (~~and grievances~~). A description of how the agency addresses an individual's ~~(+ (a))~~ right to report an alleged violation of chapter ~~((s))~~ 70.41, 71.05, 71.12, 71.24, or 71.34 RCW, and this chapter consistent with WAC 246-341-0605;

~~((b) Grievance or appeal consistent with WAC 182-538D-0654 through 182-538D-0680.))~~

(18) Personnel policies and procedures must address the following:

(a) Background checks and disclosure statements. Identification of how the agency conducts Washington state background checks and obtains disclosure statements on each agency employee with unsupervised access to individuals receiving services, consistent with RCW 43.43.830 through 43.43.842.

(b) Drug-free workplace. Identification of how the agency provides for a drug-free workplace that includes:

- (i) Agency program standards of prohibited conduct; and
- (ii) Actions to be taken in the event a staff member misuses alcohol or other drugs, including referral to a department-approved impaired practitioner or voluntary substance use monitoring program.

(c) Supervision. Identification of how supervision is provided to assist clinical and nonclinical staff and volunteers to increase their skills and improve quality of services to individuals and families.

(d) Staff training. A description of how the agency provides training initial orientation and annual training thereafter in accordance with WAC 246-341-0510.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0420, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0425 Agency administration—Individual clinical record system. Each agency (~~(licensed by the department to provide any behavioral health service)~~) must:

(1) Maintain a comprehensive clinical record system that includes policies and procedures that protect an individual's personal health information;

(2) Ensure that the individual's personal health information is shared or released only in compliance with applicable state and federal law;

(3) If maintaining electronic individual clinical records:

(a) Provide secure, limited access through means that prevent modification or deletion after initial preparation;

(b) Provide for a backup of records in the event of equipment, media, or human error; ~~((and))~~

(c) Provide for protection from unauthorized access, including network and internet access;

(d) Provide that each entry made in an individual's clinical records clearly identifies the author and who approved the entry, if applicable; and

(e) Prohibit agency employees from using another employee's credentials to access, author, modify, or delete an entry from an individual's clinical record;

(4) Retain an individual's clinical record, including an electronic record, for a minimum of six years after the most recent discharge or transfer of any individual;

(5) Retain a youth's or child's individual clinical record, including an electronic record, for at least six years after the most recent discharge, or ~~((at least three years following))~~ until the youth's or child's ~~((eighteenth))~~ twenty-first birthday, whichever is longer; and

(6) ~~((Meet the access to clinical records requirements in WAC 246-341-0650.))~~ Ensure secure storage of active or closed confidential records.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0425, filed 4/16/19, effective 5/17/19.]

~~((SECTION FIVE—))~~ BEHAVIORAL HEALTH SERVICES—PERSONNEL

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0510 Personnel—Agency record requirements. Each agency (~~(licensed by the department to provide any behavioral health~~

service)) must maintain a personnel record for each person employed by the agency.

(1) The personnel record must contain all of the following:

(a) ~~((Documentation of annual training, including documentation that the employee successfully completed training on cultural competency.))~~ A signed position description.

(b) A signed and dated commitment to maintain patient (individual) confidentiality in accordance with state and federal confidentiality requirements.

(c) A record of an orientation to the agency within ninety days of hire that includes all of the following:

(i) An overview of the agency's policies and procedures.

(ii) ~~((The duty to warn or to take reasonable precautions to provide protection from violent behavior when an individual has communicated an actual imminent threat of physical violence against a reasonably identifiable victim or victims. Taking reasonable precautions includes notifying law enforcement as required and allowed by law.~~

~~((iii))~~ Staff ethical standards and conduct, including reporting of unprofessional conduct to appropriate authorities.

~~((iv))~~ (iii) The process for resolving client ((complaints and grievances)) concerns.

~~((d))~~ (iv) Cultural competency.

(v) Violence prevention training on the safety and violence prevention topics described in RCW 49.19.030.

(vi) If providing substance use disorder services, prevention and control of communicable disease, bloodborne pathogens, and tuberculosis.

(d) A record of annual training that includes:

(i) Cultural competency; and

(ii) If providing substance use disorder services, prevention and control of communicable disease, bloodborne pathogens, and tuberculosis.

(e) A record of violence prevention training on the safety and violence prevention topics described in RCW 49.19.030; annually for employees working directly with clients receiving mental health services per RCW 71.05.720 or according to the agency's workplace violence plan required per RCW 49.19.020.

(f) A copy of the staff member's valid current credential issued by the department ((for their scope of practice)) if they provide clinical services.

(2) Staff members who have received services from the agency must have personnel records that:

(a) Are separate from clinical records; and

(b) Have no indication of current or previous service recipient status, unless the information is shared voluntarily for the purposes of employment as a certified peer counselor.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0510, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0515 Personnel—Agency staff requirements. Each agency (~~licensed by the department to provide one or more behavioral health service~~) must ensure that all of the following staff requirements are met:

~~(1) (An agency providing mental health services must ensure all of the following:~~

~~(a) Each mental health service is provided by qualified staff members who meet the following for their scope of practice and services provided:~~

~~(i) Professional standards, including documented coursework, continuing education, and training;~~

~~(ii) Clinical supervision requirements; and~~

~~(iii) Licensure and credentialing requirements.~~

~~(b) Each staff member working directly with an individual receiving mental health services receives:~~

~~(i) Clinical supervision from a mental health professional who has received documented training and competency in clinical supervision approved by the department; and~~

~~(ii) Annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.030.~~

~~(c) Staff) All staff providing clinical services are appropriately credentialed for the services they provide, which may include a co-occurring disorder specialist enhancement.~~

~~(2) All staff providing clinical services receive clinical supervision;~~

~~(3) All staff providing clinical mental health services have access to consultation with a psychiatrist, physician, physician assistant, advanced registered nurse practitioner ((ARNP)), or psychologist who has at least one year's experience in the direct treatment of individuals who have a mental or emotional disorder.~~

~~((2) An agency providing substance use disorder treatment services must ensure all of the following:~~

~~(a) All substance use disorder assessment and counseling services are provided by a chemical dependency professional (CDP), or a department-credentialed chemical dependency professional trainee (CDPT) under the supervision of an approved supervisor.~~

~~(b) There is a designated clinical supervisor who:~~

~~(i) Is a CDP;~~

~~(ii) Is an approved supervisor who meets the requirements of chapter 246-811 WAC; and~~

~~(iii) Has not committed, permitted, aided, or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.~~

~~(c) Each chemical dependency professional trainee has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.~~

~~(d) Each staff member that provides individual care has a copy of an initial tuberculosis (TB) screen or test and any subsequent screenings or testing in their personnel file.~~

~~(e) All staff members are provided annual training on the prevention and control of communicable disease, bloodborne pathogens, and TB, and document the training in the personnel file.~~

~~(3-))~~ (4) An agency providing group counseling or group therapy must have a staff ratio of at least one staff member to every sixteen individuals during group counseling or therapy sessions.

(5) A Mental health professional is:

(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), psychiatric nurse, or social worker as defined in chapters 71.05 and 71.34 RCW;

(b) A person who is licensed by the department as a mental health counselor or mental health counselor associate, marriage and family therapist, or marriage and family therapist associate; or

(c) An agency staff member with a designation given by the department or an attestation by the licensed behavioral health agency that the person meets the following:

(i) Holds a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university who has at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, experience that was gained under the supervision of a mental health professional recognized by the department or attested to by the licensed behavioral health agency;

(ii) Who meets the waiver criteria of RCW 71.24.260, and the waiver was granted prior to 1986; or

(iii) Who had an approved waiver to perform the duties of a mental health professional (MHP), that was requested by the behavioral health organization (BHO) and granted by the mental health division prior to July 1, 2001.

(6) An agency providing problem gambling and ((pathological)) gambling disorder treatment services must ensure ((all of the following):

~~(a) All problem and pathological gambling treatment services are provided by:~~

~~(i) A certified Washington state, national, or international gambling counselor who is credentialed by the department under chapter 18.19, 18.83, or 18.225 RCW; or~~

~~(ii) An individual credentialed by DOH under chapter 18.19, 18.83, or 18.225 RCW, under the supervision of a certified problem gambling counselor, in training to become a certified problem gambling counselor.~~

~~(b) Before providing problem and pathological treatment services, an individual in training to become a certified problem gambling counselor must have a minimum of:~~

~~(i) At least one thousand five hundred hours of professionally supervised postcertification or postregistration experience providing mental health or substance use disorder treatment services; and~~

~~(ii) Thirty hours of unduplicated gambling specific training, including the basic training; one of the following state, national, or international organizations must approve the training:~~

~~(A) Washington state gambling counselor certification committee;~~

~~(B) National or international gambling counselor certification board; or~~

~~(C) The department.~~

~~(c) An individual who meets subsection (3) (b) (ii) of this section must complete training to become a certified problem and pathological gambling counselor within two years of beginning problem and pathological gambling clinical practice.~~

~~(d) All staff members in training to become a certified problem gambling counselor must receive clinical supervision. The clinical supervisor must:~~

~~(i) Hold a valid international gambling counselor certification board-approved clinical consultant credential, a valid Washington state certified gambling counselor II certification credential, or a valid national certified gambling counselor II certification credential; and~~

~~(ii) Complete training on gambling specific clinical supervision approved by a state, national, or international organization including, but not limited to, the:~~

~~(A) Washington state gambling counselor certification committee;~~

~~(B) National or international gambling counselor certification board; or~~

~~(C) The department)) staffing in accordance with WAC 246-341-0754.~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0515, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0520 Personnel—Agency requirements for supervision of trainees, interns, volunteers, and students. Each agency licensed by the department to provide any behavioral health service must ensure the following supervision requirements are met for trainees, interns, volunteers, and students:

(1) Each trainee, intern, volunteer, and student ((~~passes~~)) with unsupervised access to individuals receiving services obtains a background check and submits a disclosure statement consistent with RCW 43.43.830 through 43.43.842;

(2) Each trainee, intern, volunteer, and student who receives clinical training ((~~at an agency must be assigned a supervisor who has been approved by the agency administrator or designee. The assigned supervisor:~~

~~(a) Must be credentialed by the department for their scope of practice;~~

~~(b) Is responsible for all individuals assigned to the trainee or intern they supervise; and~~

~~(c)) must receive clinical supervision that includes review of clinical documentation with the trainee ((~~or~~), intern, volunteer, or student as part of the supervision process; and~~

(3) The agency must obtain and retain a confidentiality statement signed by the trainee, intern, volunteer, and student and the person's academic supervisor, if applicable.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0520, filed 4/16/19, effective 5/17/19.]

~~((SECTION SIX))~~ BEHAVIORAL HEALTH SERVICES—CLINICAL

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0600 Clinical—Individual rights. (1) Each agency must protect and promote individual participant rights applicable to the services the agency is certified to provide in compliance with this chapter, and chapters 70.41, 71.05, 71.12, 71.24, and 71.34 RCW, as applicable.

(2) ~~Each agency ((licensed by the department to provide any behavioral health service))~~ must develop a statement of individual participant rights applicable to the services ~~((categories))~~ the agency is ~~((licensed for))~~ certified to provide, to ensure an individual's rights are protected in compliance with chapters 70.41, 71.05, 71.12, 71.24, and 71.34 RCW~~((. In addition))~~, as applicable. To the extent that the rights set out in those chapters do not specifically address the rights in this subsection or are not applicable to all of the agency's services, the agency must develop a general statement of individual participant rights that incorporates at a minimum the following statements. "You have the right to:"

(a) Receive services without regard to race, creed, national origin, religion, gender, sexual orientation, age or disability;

(b) Practice the religion of choice as long as the practice does not infringe on the rights and treatment of others or the treatment service. Individual participants have the right to refuse participation in any religious practice;

(c) Be reasonably accommodated in case of sensory or physical disability, limited ability to communicate, limited-English proficiency, and cultural differences;

(d) Be treated with respect, dignity and privacy, except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises or to address risk of harm to the individual or others. "Reasonable" is defined as minimally invasive searches to detect contraband or invasive searches only upon the initial intake process or if there is reasonable suspicion of possession of contraband or the presence of other risk that could be used to cause harm to self or others;

(e) Be free of any sexual harassment;

(f) Be free of exploitation, including physical and financial exploitation;

(g) Have all clinical and personal information treated in accord with state and federal confidentiality regulations;

(h) Participate in the development of your individual service plan and receive a copy of the plan if desired;

(i) Review your clinical record in the presence of the administrator or designee and be given an opportunity to request amendments or corrections; and

~~((i) Receive a copy of agency grievance system procedures according to WAC 182-538D-0654 through 182-538D-0680 upon request and to~~

~~file a grievance with the agency, or behavioral health organization (BHO), if applicable, if you believe your rights have been violated; and)~~

(j) Submit a report to the department when you feel the agency has violated a WAC requirement regulating behavioral health agencies.

~~((2))~~ (3) Each agency must ensure the applicable individual participant rights described in subsection (1) of this section are:

(a) Provided in writing to each individual on or before admission;

(b) Available in alternative formats for individuals who are visually impaired;

(c) Translated to the most commonly used languages in the agency's service area;

(d) Posted in public areas; and

(e) Available to any participant upon request.

~~((3) Each agency must ensure all research concerning an individual whose cost of care is publicly funded is done in accordance with chapter 388-04 WAC, protection of human research subjects, and other applicable state and federal rules and laws.~~

~~(4) In addition to the requirements in this section, each agency providing services to medicaid recipients must ensure an individual seeking or participating in behavioral health treatment services, or the person legally responsible for the individual is informed of their medicaid rights at time of admission and in a manner that is understandable to the individual or legally responsible person.~~

~~(5) The grievance system rules in WAC 182-538D-0654 through 182-538D-0680 apply to an individual who receives behavioral health services funded through a federal medicaid program or sources other than a federal medicaid program.)~~ (4) At the time of admission and upon client request, the agency must provide each client with information on how to file a report to the department if they feel their rights or requirements of this chapter have been violated.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0600, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0605 Complaint process. (1) Any person may submit a report to the department of an alleged violation of licensing and certification laws and rules.

(2) Health care professionals credentialed by the department must comply with the mandatory reporting requirements in chapters 18.130 RCW and 246-16 WAC.

(3) If the department determines a report should be investigated, the report becomes a complaint. If the department conducts a complaint investigation, agency representatives must cooperate to allow department representatives to:

(a) Examine any part of the facility at reasonable times and as needed;

(b) Review and evaluate agency records including, but not limited to:

(i) An individual's clinical record and personnel file; and

(ii) The agency's policies, procedures, fiscal records, and any other documents required by the department to determine compliance and to resolve the complaint; and

(c) Conduct individual interviews with staff members and individuals receiving services.

(4) An agency or agency provider must not retaliate against any:

(a) Individual or individual's representative for making a report with the department or being interviewed by the department about a complaint;

(b) A witness involved in the complaint issue; or

(c) An employee of the agency.

(5) The department may assess a ((fee)) fine under RCW 43.70.250, or deny, suspend, or modify a license or certification under RCW 43.70.115, if:

(a) Any allegation within the complaint is substantiated; or

(b) The department's finding that the individual or individual's representative, a witness, or employee of the agency experienced an act of retaliation by the agency as described in subsection (4) of this section during or after a complaint investigation.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0605, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0640 Clinical (~~(—Additional)~~) record content. Each agency (~~(licensed by the department to provide any behavioral health service)~~) is responsible for the components and documentation in an individual's clinical record content unless specified otherwise in specific service certification requirements.

(1) The clinical record must include:

~~((1))~~ (a) Documentation the individual received a copy of counselor disclosure requirements as required for the counselor's credential ~~((7))~~.

~~((2) Demographic)~~ (b) Identifying information ~~((7))~~.

~~((3))~~ (c) An assessment ~~((7)~~

~~(4) Documentation of the individual's response when asked if:~~

~~(a) The individual is under department of corrections (DOC) supervision;~~

~~(b) The individual is under civil or criminal court ordered mental health or substance use disorder treatment; and~~

~~(c) There is a court order exempting the individual participant from reporting requirements. A copy of the court order must be included in the record if the participant claims exemption from reporting requirements.~~

~~(5) Documentation that the agency is in compliance with RCW 71.05.445 regarding mental health services for individuals under department of corrections supervision;~~

~~(6) Documentation the individual was informed of applicable federal and state confidentiality requirements;~~

~~(7))~~ which is an age-appropriate, strengths-based psychosocial assessment that considers current needs and the individual's relevant behavioral and physical health history according to best practices,

completed by a person appropriately credentialed or qualified to provide the type of assessment pertaining to the service(s) being sought, which includes:

(i) Presenting issue(s);

(ii) An assessment of any risk of harm to self and others, including suicide, homicide, and a history of self-harm and, if the assessment indicates there is such a risk, a referral for provision of emergency/crisis services;

(iii) Treatment recommendations or recommendations for additional program-specific assessment; and

(iv) A diagnostic assessment statement, including sufficient information to determine a diagnosis supported by the current and applicable *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5) or a placement decision, using ASAM criteria dimensions, when the assessment indicates the individual is in need of substance use disorder services.

(d) Individual service plan that:

(i) Is completed or approved by a person appropriately credentialed or qualified to provide mental health, substance use, co-occurring, or problem gambling disorder services;

(ii) Addresses issues identified in the assessment and by the individual or, if applicable, the individual's parent(s) or legal representative;

(iii) Contains measurable goals or objectives and interventions;

(iv) Must be mutually agreed upon and updated to address changes in identified needs and achievement of goals or at the request of the individual or, if applicable, the individual's parent or legal representative;

(v) Must be in a terminology that is understandable to the individuals and the individual's family or legal representative, if applicable.

(e) If treatment is not court-ordered, documentation of informed consent to treatment by the individual or individual's parent, or other legal representative.

(f) Progress and group notes including the date, time, duration, participant's name, response to interventions or clinically significant behaviors during the group session, and a brief summary of the individual or group session and the name and credential of the staff member who provided it.

(g) If treatment is for a substance use disorder, documentation that ASAM criteria was used for admission, continued services, referral, and discharge planning and decisions.

(h) Discharge information as follows:

(i) A discharge statement if the individual left without notice;

or

(ii) Discharge information for an individual who did not leave without notice, completed within seven working days of the individual's discharge, including:

(A) The date of discharge;

(B) Continuing care plan; and

(C) If applicable, current prescribed medication.

(2) When the following situations apply, the clinical record must include:

(a) Documentation of confidential information that has been released without the consent of the individual under:

((a)) (i) RCW 70.02.050;

~~((b))~~ (ii) The Health Insurance Portability and Accountability Act (HIPAA); and

~~((e))~~ (iii) RCW 70.02.230 and 70.02.240 if the individual received mental health treatment services;

(iv) 42 C.F.R. Part 2.

~~((8))~~ (b) Documentation that any mandatory reporting of abuse, neglect, or exploitation consistent with chapters 26.44 and 74.34 RCW has occurred~~((7))~~.

~~((9) If treatment is not court-ordered, documentation of informed consent to treatment by the individual or individual's parent, or other legal representative;~~

~~(10))~~ (c) If treatment is court-ordered, a copy of the order~~((7))~~.

~~((11))~~ (d) Medication records~~((, if applicable;))~~.

~~((12))~~ (e) Laboratory reports~~((, if applicable;))~~.

~~((13))~~ (f) Properly completed authorizations for release of information~~((, if applicable;))~~.

~~(14) Copies of applicable correspondence;~~

~~(15) Discharge information as follows:~~

~~(a) A discharge statement if the individual left without notice;~~

~~(b) Discharge information for an individual who did not leave without notice, completed within seven working days of the individual's discharge, including:~~

~~(i) The date of discharge;~~

~~(ii) Continuing care plan;~~

~~(iii) Legal status, and if applicable; and~~

~~(iv) Current prescribed medication).~~

~~((e) When an individual is transferring to another service provider,))~~ (g) Documentation that copies of documents pertinent to the individual's course of treatment were forwarded to the new service provider with the individual's permission.

~~((16))~~ (h) A copy of any report required by entities such as the courts, department of corrections, department of licensing, and the department of health, and the date the report was submitted~~((7))~~.

~~((17) Progress notes must include the date, time, duration, participant's name, response to interventions, and a brief summary of the session and the name and credential of the staff member who provided it;~~

~~(18))~~ (i) Documentation of coordination with any systems or organizations the individual identifies as being relevant to treatment, with the individual's consent or if applicable, the consent of the individual's parent or legal representation~~((7-and))~~.

~~((19))~~ (j) A crisis plan, if one has been developed.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0640, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0650 Clinical—Access to clinical records. (1) Each agency ~~((licensed by the department to provide any behavioral health service must:~~

~~(1) Provide access to an individual's clinical record at the request of the individual or, if applicable, the individual's designated representative, or legal representative, or both. The agency must:~~

~~(a) Ensure that any material confidential to another person, agency, or provider is not redisclosed.~~

~~(b) Make the clinical record available to the requester within fifteen days of the request.~~

~~(c) Allow appropriate time and privacy for the review.~~

~~(d) Have)) must only provide access to clinical records in compliance with applicable state and federal statutes and regulations.~~

~~(2) When providing access to clinical records to an individual, the agency must allow appropriate time and privacy for the review and have a clinical staff member available to answer questions.~~

~~((c) Assure the charge for duplicating or searching the record is at a rate not higher than the "reasonable fee" as defined in RCW 70.02.010.~~

~~(2) Make an individual's)) (3) If the agency maintains electronic clinical records, the agency must make the records available in hard-copy form.~~

~~(4) The agency must allow the department access to individual clinical records ((available to department staff as required for department program review.~~

~~(3) If the agency maintains electronic individual clinical records, the agency must:~~

~~(a) Make the clinical record available, in paper form if requested; and~~

~~(b) Meet the criteria in subsections (1) and (2) of this section)).~~

~~((4)) (5) When an individual receiving mental health services is under the supervision of the department of corrections (DOC), the agency must make information available to DOC, in accordance with RCW 71.05.445. The information released does not require the consent of the individual.~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0650, filed 4/16/19, effective 5/17/19.]

~~((SECTION SEVEN))~~ OUTPATIENT AND RECOVERY SUPPORT SERVICES

AMENDATORY SECTION (Amending WSR 20-07-091, filed 3/17/20, effective 5/1/20)

WAC 246-341-0700 Outpatient and recovery support services—General. Outpatient behavioral health services and recovery support services are intended to improve or reduce symptoms and help facilitate resolution of situational disturbances for individuals in the areas of relationships, employment, and community integration.

(1) Outpatient services include the ~~((following:~~

- ~~(a) Individual mental health treatment services;~~
 - ~~(b) Brief mental health intervention treatment services;~~
 - ~~(c) Group mental health therapy services;~~
 - ~~(d) Family therapy mental health services;~~
 - ~~(e) Rehabilitative case management mental health services;~~
 - ~~(f) Psychiatric medication mental health services and medication support;~~
 - ~~(g) Day support mental health services;~~
 - ~~(h) Mental health outpatient services provided in a residential treatment facility (RTF);~~
 - ~~(i) Level one outpatient substance use disorder services;~~
 - ~~(j) Level two intensive outpatient substance use disorder services;~~
 - ~~(k) Substance use disorder assessment only services;~~
 - ~~(l) Alcohol and drug information school;~~
 - ~~(m) Substance use disorder information and crisis services;~~
 - ~~(n) Substance use disorder emergency service patrol services;~~
 - ~~(o) Substance use disorder screening and brief intervention services; and~~
 - ~~(p) Problem and pathological gambling services)) certifications described in WAC 246-341-0702 through 246-341-0754.~~
- (2) Recovery support services include the ((following:
- ~~(a) Supported employment mental health and substance use disorder services;~~
 - ~~(b) Supportive housing mental health and substance use disorder services;~~
 - ~~(c) Peer support mental health services;~~
 - ~~(d) Wraparound facilitation mental health services;~~
 - ~~(e) Applied behavior analysis (ABA) mental health services;~~
 - ~~(f) Consumer run clubhouse mental health services; and~~
 - ~~(g) Mental health peer respite services.~~
- ~~(3) A behavioral health agency that provides outpatient or recovery support services must:~~
- ~~(a) Be licensed by the department as a behavioral health agency; and~~
 - ~~(b) Meet the applicable program-specific requirements for each behavioral health service provided)) certifications described in WAC 246-341-0720 through 246-341-0730.~~

[Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-0700, filed 3/17/20, effective 5/1/20. Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0700, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0702 Outpatient services—Individual mental health treatment services. ((~~1~~)) Individual mental health treatment services are services designed to assist an individual in attaining the goals identified in the individual service plan. The treatment services are conducted with the individual and any natural supports as identified by the individual.

~~((2) An agency certified to provide individual treatment services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.))~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0702, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0704 Outpatient services—Brief mental health intervention treatment services. ~~((1))~~ Brief mental health intervention treatment services are solution-focused and outcome-oriented cognitive and behavioral interventions, intended to resolve situational disturbances. These services do not require long-term treatment, are generally completed in six months or less, and do not include ongoing care, maintenance, or monitoring of the individual's current level of function or assistance with self-care or life skills training.

~~((2) An agency certified to provide brief mental health intervention treatment services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.))~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0704, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0706 Outpatient services—Group mental health therapy services. Group mental health therapy services are provided to an individual in a group setting to assist the individual in attaining the goals described in the individual service plan. ~~((In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650, an agency certified to provide group mental health services must:~~

- ~~(1) Have a written description of each group's purpose;~~
- ~~(2) Ensure group therapy services are provided with a staff ratio of one staff member for every sixteen individuals;~~
- ~~(3) Ensure any group containing more than twelve individuals has at least one facilitator or cofacilitator that is an appropriately credentialed professional; and~~
- ~~(4) Ensure group notes are recorded in each individual's clinical record and include the requirements of WAC 246-341-0640(17) for discharge information.))~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0706, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0708 Outpatient services—Family therapy mental health services. (1) Family therapy mental health services are services provided for the direct benefit of an individual, with either family members, or other relevant persons, or both, in attendance, with the consent of the individual.

(2) Interventions must identify and build competencies to strengthen family functioning in relationship to the individual's identified goals. The individual may or may not be present.

~~((3) An agency certified to provide family therapy mental health services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.))~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0708, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0710 Outpatient services—Rehabilitative case management mental health services. Rehabilitative case management mental health services are services that meet the ongoing assessment, facilitation, care coordination and advocacy for options and services to meet an individual's needs through communication and available resources, to promote quality and effective outcomes during and following a hospitalization.

(1) Rehabilitative case management services support individual employment, education, and participation in other daily activities appropriate to the individual's age, gender, and culture, and assist individuals in resolving crises in the least restrictive setting.

(2) Rehabilitative case management services include specific rehabilitative services provided to:

(a) Assist in an individual's discharge from an inpatient facility; and

(b) Minimize the risk of readmission to an inpatient setting.

(3) An agency ((certified to provide rehabilitative case management services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650)) providing rehabilitative case management is not required to complete the assessment requirement in WAC 246-341-0640 (1)(c).

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0710, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0712 Outpatient services—Psychiatric medication ((mental health)) management services ((and medication support)).

Psychiatric medication ((mental health)) management services are a variety of activities related to prescribing and administering medication, including monitoring an individual for side effects and changes as needed. ((These services may only be provided with one of the outpatient mental health services in WAC 246-341-0700 (1)(a) through (e).))

(1) An agency providing psychiatric medication management services ((may also provide medication support services, described in subsections (2) and (3) of this section.

((1) An agency providing psychiatric medication services)) must:

(a) Ensure that medical direction and responsibility are assigned to a:

(i) Physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or board-eligible in psychiatry;

(ii) Psychiatric advanced registered nurse practitioner (ARNP) licensed under chapter 18.79 RCW; or

(iii) Physician assistant licensed under chapter 18.71A or 18.57A RCW working with a supervising psychiatrist.

(b) Ensure that the services are provided by a prescriber licensed by the department who is practicing within the scope of that practice;

(c) Ensure that all staff administering medications are ((administered by staff practicing within the scope of their practice)) appropriately credentialed;

(d) Have a process by which the medication prescriber informs either the individual, the legally responsible party, or both, and, as appropriate, family members, of the potential benefits and side effects of the prescribed medication(s);

(e) Must ensure that all medications maintained by the agency are safely and securely stored, including assurance that:

(i) Medications are kept in locked cabinets within a well-lit, locked and properly ventilated room;

(ii) Medications kept for individuals on medication administration or self-administration programs are clearly labeled and stored separately from medication samples kept on-site;

(iii) Medications marked "for external use only" are stored separately from oral or injectable medications;

(iv) Refrigerated food or beverages used in the administration of medications are kept separate from the refrigerated medications by the use of trays or other designated containers;

(v) Syringes and sharp objects are properly stored and disposed of;

(vi) Refrigerated medications are maintained at the required temperature; and

(vii) If the individual gives permission for disposal, outdated medications are disposed of in accordance with the regulations of the ((state board of)) pharmacy quality assurance commission and no outdated medications are retained.

(2) An agency providing psychiatric medication management services may utilize a physician or ARNP without board eligibility in psy-

chiatry if unable to employ or contract with a psychiatrist. In this case, the agency must ensure that:

(a) Psychiatrist consultation is provided to the physician or ARNP at least monthly; and

(b) A psychiatrist or psychiatric ARNP is accessible to the physician or ARNP for emergency consultation.

~~((3) Medication support services occur face-to-face and:~~

~~(a) Include one-on-one cueing, observing, and encouraging an individual to take medication as prescribed;~~

~~(b) Include reporting any pertinent information related to the individual's adherence to the medication back to the agency that is providing psychiatric medication services; and~~

~~(c) May take place at any location and for as long as it is clinically necessary.~~

~~(4) An agency providing medication support services must:~~

~~(a) Ensure that the staff positions responsible for providing either medication monitoring, or delivery services, or both, are clearly identified in the agency's medication support services policy;~~

~~(b) Have appropriate policies and procedures in place when the agency providing medication support services maintains or delivers medication to the individual that address:~~

~~(i) The maintenance of a medication log documenting medications that are received, prescribed, and dispensed;~~

~~(ii) Reasonable precautions that need to be taken when transporting medications to the intended individual and to assure staff safety during the transportation; and~~

~~(iii) The prevention of contamination of medication during delivery, if delivery is provided.)~~

(c) Ensure that the individual's clinical record contains ~~((the individual service plan, including))~~ documentation of medication ~~((support))~~ management services.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0712, filed 4/16/19, effective 5/17/19.]

NEW SECTION

WAC 246-341-0713 Outpatient services—Medication monitoring services. (1) Medication monitoring services occur face-to-face and:

(a) Include one-on-one cueing, observing, and encouraging an individual to take medication as prescribed;

(b) Include reporting any pertinent information related to the individual's adherence to the medication back to the agency that is providing psychiatric medication services; and

(c) May take place at any location and for as long as it is clinically necessary.

(2) An agency providing medication monitoring services must:

(a) Ensure that the staff positions responsible for providing either medication monitoring, or delivery services, or both, are clearly identified in the agency's medication monitoring services policy;

(b) Have appropriate policies and procedures in place when the agency providing medication monitoring services maintains or delivers medication to the individual that address:

- (i) The maintenance of a medication log documenting the type and dosage of medications, and the time and date;
 - (ii) Reasonable precautions that need to be taken when transporting medications to the intended individual and to assure staff safety during the transportation; and
 - (iii) The prevention of contamination of medication during delivery, if delivery is provided.
- (c) Ensure that the individual's clinical record includes documentation of medication monitoring services.

[]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0714 Outpatient services—Day support mental health services. (1) Day support mental health services provide a range of integrated and varied life skills training. Day support services are designed to assist an individual in the acquisition of skills, retention of current functioning, or improvement in the current level of functioning, appropriate socialization, and adaptive coping skills.

(2) Services include training in basic living and social skills, and educational, vocational, prevocational, and day activities. Day support services may include therapeutic treatment.

~~((3) An agency certified to provide day support services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.))~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0714, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 20-07-091, filed 3/17/20, effective 5/1/20)

WAC 246-341-0718 Recovery support services—Recovery support—General. Recovery support services are intended to promote an individual's socialization, recovery, self-advocacy, development of natural support, and maintenance of community living skills.

(1) Recovery support services include:

- (a) Supported employment services;
- (b) Supportive housing services;
- (c) Peer support services;
- (d) Mental health peer respite services;
- (e) ~~((Wraparound facilitation services;~~
- ~~(f))~~ Applied behavior analysis (ABA) services; and
- ~~((g))~~ (f) Consumer-run clubhouse services.

(2) An agency that provides any recovery support service may operate through an agreement with a licensed behavioral health agency that provides certified outpatient behavioral health services (~~listed in WAC 246-341-0700~~) described in WAC 246-341-0702 through 246-341-0754. The agreement must specify the responsibility for ini-

tial assessments, the determination of appropriate services, individual service planning, and the documentation of these requirements in order to meet the requirements in WAC 246-341-0640. Subsections (3) ~~((through (5)))~~ and (4) of this section list the abbreviated requirements for assessments, staff, and clinical records.

(3) When providing any recovery support service, a behavioral health agency must:

(a) Have an assessment process to determine the appropriateness of the agency's services, based on the individual's needs and goals;

(b) Refer an individual to a more intensive level of care when appropriate; and

(c) With the consent of the individual, include the individual's family members, significant others, and other relevant treatment providers as necessary to provide support to the individual.

~~(4) ((An agency providing recovery support services must ensure:~~

~~(a) Each staff member working directly with an individual receiving any recovery support service has annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.030; and~~

~~(b) The staff member's personnel record documents the training.~~

~~(5))~~ An agency providing any recovery support service must maintain an individual's clinical record that contains:

(a) Documentation of the following:

(i) The name of the agency or other sources through which the individual was referred;

(ii) A brief summary of each service encounter, including the date, time, and duration of the encounter; and

(iii) Names of participant(s), including the name of the individual who provided the service.

(b) Any information or copies of documents shared by, or with, a behavioral health agency certified for outpatient mental health services.

[Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-0718, filed 3/17/20, effective 5/1/20. Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0718, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0720 Outpatient services—Recovery support—Supported employment mental health and substance use disorder services. Supported employment mental health and substance use disorder services assist in job search, placement services, and training to help individuals find competitive jobs in their local communities.

~~(1) ((An agency that provides certified supported employment services must meet the general requirements for recovery support services in WAC 246-341-0718.~~

~~(2))~~ A behavioral health agency that provides supported employment services must have knowledge of and provide individuals access to employment and education opportunities by coordinating efforts with one or more entities that provide other rehabilitation and employment services, such as:

(a) The department of social and health services' division of vocational rehabilitation (DVR) (~~(, which provides supported employment under WAC 388-891-0840 by community rehabilitation program contract as described in WAC 388-892-0100)~~);

(b) The department of social and health services' community services offices;

(c) State board for community (~~(, trade,)~~) and technical colleges;

(d) The business community;

(e) WorkSource, Washington state's official site for online employment services;

(f) Washington state department of employment security; and

(g) Organizations that provide job placement within the community.

~~((3))~~ (2) A behavioral health agency that provides supported employment services must:

(a) Ensure all staff members who provide direct services for employment are knowledgeable and familiar with services provided by the ~~((department's))~~ department of social and health services' division of vocational rehabilitation;

(b) Conduct and document a vocational assessment in partnership with the individual that includes work history, skills, training, education, and personal career goals;

(c) Assist the individual to create an individualized job and career development plan that focuses on the individual's strengths and skills;

(d) Assist the individual to locate employment opportunities that are consistent with the individual's skills, goals, and interests;

(e) Provide and document any outreach, job coaching, and support at the individual's worksite when requested by the individual or the individual's employer; and

(f) If the employer makes a request, provide information regarding the requirements of reasonable accommodations, consistent with the Americans with Disabilities Act (ADA) of 1990 and Washington state antidiscrimination law.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0720, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0722 Outpatient services—Recovery support—Supportive housing mental health and substance use disorder services. Supportive housing mental health and substance use disorder services support an individual's transition to community integrated housing and support the individual to be a successful tenant in a housing arrangement.

~~(1) ((An agency that provides certified supportive housing services must meet the general requirements for recovery support services in WAC 246-341-0718.~~

~~(2))~~ A behavioral health agency that provides supportive housing services must have knowledge of and provide housing related collaborative activities to assist individuals in identifying, coordinating, and securing housing or housing resources with entities such as:

- (a) Local homeless continuum of care groups or local homeless planning groups;
- (b) Housing authorities that operate in a county or city (~~in the behavioral health organization's (BHO) regional service area~~);
- (c) Community action councils (~~that operate in a county or region in the BHO's regional service area~~);
- (d) Landlords of privately owned residential homes; and
- (e) State agencies that provide housing resources.
- ~~((3))~~ (2) A behavioral health agency that provides supportive housing services must:
- (a) Ensure all staff members who provide direct services for supportive housing are knowledgeable and familiar with fair housing laws;
- (b) Conduct and document a housing assessment in partnership with the individual that includes housing preferences, affordability, and barriers to housing;
- (c) Conduct and document a functional needs assessment in partnership with the individual that includes independent living skills and personal community integration goals;
- (d) Assist the individual to create an individualized housing acquisition and maintenance plan that focuses on the individual's choice in housing;
- (e) Assist the individual to locate housing opportunities that are consistent with the individual's preferences, goals, and interests;
- (f) Provide any outreach, tenancy support, and independent living skill building supports at a location convenient to the individual;
- (g) Provide the individual with information regarding the requirements of the Fair Housing Act, Americans with Disabilities Act (ADA) of 1990, and Washington state antidiscrimination law, and post this information in a public place in the agency; and
- (h) Ensure the services are specific to each individual and meant to assist in obtaining and maintaining housing in scattered-site, clustered, integrated, or single-site housing as long as the individual holds a lease or sublease.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0722, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0724 Outpatient services—Recovery support—Peer support ((mental)) behavioral health services. (1) Peer support (~~men-tal~~) behavioral health services provide a wide range of activities to assist an individual in exercising control over their own life and recovery process through:

(a) Developing self-advocacy and natural supports;

(b) Maintenance of community living skills;

(c) Promoting socialization; and

(d) The practice of peer counselors sharing their own life experiences related to (~~mental illness~~) behavioral health disorders to build alliances that enhance the individual's ability to function.

(2) An agency that provides certified peer support services must ~~((meet the general requirements for recovery support services in WAC 246-341-0718.~~

~~(3) An agency providing peer support services must ensure peer support counselors):~~

~~(a) Ensure peer support counselors are recognized by the health care authority as a "peer counselor" as defined in WAC ((182-538D-0200)) 246-341-0200; and~~

~~(b) Provide peer support services ((+~~

~~(i) Under the supervision of a mental health professional; and~~

~~(ii)) within the scope of the peer counselor's training and department of health credential.~~

~~((4) An agency providing peer support services must document the frequency, duration, and expected outcome of all peer support services in the individual service plan.))~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0724, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0730 Outpatient services—Consumer-run recovery support—Clubhouses (~~—Required clubhouse components~~)). (1) ~~((The department certifies consumer-run clubhouses under the provision of RCW 71.24.035. International center for clubhouse development certification is not a substitute for certification by the state of Washington.~~

~~(2) Required clubhouse components include all of the following:~~

~~(a) Voluntary member participation. Clubhouse members choose the way they use the clubhouse and the staff with whom they work. There are no agreements, contracts, schedules, or rules intended to enforce participation of members. All member participation is voluntary. Clubhouse policy and procedures must describe how members will have the opportunity to participate, based on their preferences, in the clubhouse.~~

~~(b) The work-ordered day.~~

~~(c) Activities, including:~~

~~(i) Personal advocacy;~~

~~(ii) Help with securing entitlements;~~

~~(iii) Information on safe, appropriate, and affordable housing;~~

~~(iv) Information related to accessing medical, psychological, pharmacological and substance use disorder services in the community;~~

~~(v) Outreach to members during periods of absence from the clubhouse and maintaining contact during periods of inpatient treatment;~~

~~(vi) In-house educational programs that use the teaching and tutoring skills of members;~~

~~(vii) Connecting members with adult education opportunities in the community;~~

~~(viii) An active employment program that assists members to gain and maintain employment in full- or part-time competitive jobs in integrated settings developed in partnership with the member, the clubhouse, and the employer and time-limited, part-time community jobs managed by the clubhouse with absentee coverage provided; and~~

~~(ix) An array of social and recreational opportunities.~~

~~(d) Operating at least thirty hours per week on a schedule that accommodates the needs of the members.)~~ A clubhouse is a community-based program that provides rehabilitation services.

(2) The clubhouse may be peer-operated and must:

(a) Be member-run with voluntary participation;

(b) Be recovery-focused;

(c) Focus on strengths, talents, and abilities of its members;

(d) Have a clubhouse director who:

(i) Engages members and staff in all aspects of the clubhouse operations; and

(ii) Is ultimately responsible for the operation of the clubhouse.

(e) Be comprised of structured activities including:

(i) Personal advocacy;

(ii) Help with securing entitlements;

(iii) Information on safe, appropriate, and affordable housing;

(iv) Community resource development;

(v) Connecting members with adult education opportunities in the community;

(vi) An active employment program that assists members to gain and maintain employment in full- or part-time competitive jobs. Employment related activities may include resume building, education on how employment will affect benefits, information on other employment services, and information regarding protections against employment discrimination; and

(vii) An array of social and recreational opportunities.

(f) Use a work-ordered day to allow all members the opportunity to participate in all the work of the clubhouse including:

(i) Administration;

(ii) Research;

(iii) Intake and orientation;

(iv) Outreach;

(v) Training and evaluation of staff;

(vi) Public relations;

(vii) Advocacy; and

(viii) Evaluation of clubhouse effectiveness.

(g) Provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community.

(3) "Work-ordered day" means a model used to organize clubhouse activities during the clubhouse's normal working hours.

(a) Members and staff are organized into one or more work units which provide meaningful and engaging work essential to running the clubhouse.

(b) Activities include unit meetings, planning, organizing the work of the day, and performing the work that needs to be accomplished to keep the clubhouse functioning.

(c) Members and staff work side-by-side as colleagues as evidenced by both the member and the staff signature on progress towards goals.

(d) Members participate as they feel ready and according to their individual interests.

(e) Work in the clubhouse is not intended to be job-specific training, and members are neither paid for clubhouse work nor provided artificial rewards.

(f) Work-ordered day does not include medication clinics, day treatment, or other therapy programs.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0730, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0738 Outpatient services—Level one outpatient substance use disorder services. (~~((1) ASAM))~~ Level one outpatient substance use disorder services provide ((a program of)) individualized treatment that may include individual and group counseling, education, and activities ((, in accordance with ASAM criteria.

~~(2) An agency certified to provide level one outpatient substance use disorder services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.~~

~~(3) An agency certified to provide level one outpatient substance use disorder services must ensure both of the following:~~

~~(a) Group therapy services are provided with a staff ratio of one staff member for every sixteen individuals; and~~

~~(b) A group counseling session with twelve to sixteen youths includes a second staff member).~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0738, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0740 Outpatient services—Level two intensive outpatient substance use disorder services. ((ASAM)) (1) Level two intensive outpatient substance use disorder services provide a higher-intensity, concentrated ((program of)) level of individualized treatment that may include individual and group counseling, education, and other activities ((, in accordance with ASAM criteria.

~~(1) An agency certified to provide level two intensive outpatient treatment services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650).~~

(2) An agency providing level two intensive outpatient treatment services for deferred prosecution under RCW 10.05.150 must:

(a) Ensure that ~~((individuals admitted under a deferred prosecution order receive services that meet the requirements of RCW 10.05.150, including, that the individual receives))~~ services include a minimum of seventy-two hours of treatment services within a maximum of twelve weeks, which consist of the following during the first four weeks of treatment:

(i) At least three sessions each week, with each session occurring on separate days of the week;

(ii) Group sessions that must last at least one hour; and

(iii) Attendance at self-help groups in addition to the seventy-two hours of treatment services.

(b) There must be approval, in writing, by the court having jurisdiction in the case, when there is any exception to the requirements in this subsection; ~~((and))~~

(c) The agency must refer for ongoing treatment or support upon completion of intensive outpatient treatment, as necessary; and

(d) The agency must report noncompliance with the court mandated treatment in accordance with WAC 246-341-0800.

~~((3) An agency certified to provide level two intensive outpatient substance use disorder services must ensure both of the following:~~

~~(a) Group therapy services are provided with a staff ratio of one staff member for every sixteen individuals; and~~

~~(b) A group counseling session with twelve to sixteen youths includes a second staff member.)~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0740, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0742 Outpatient services—Substance use disorder assessment only services. Substance use disorder assessment only services are provided to an individual to determine the individual's involvement with alcohol and other drugs and determine the appropriate course of care or referral.

(1) A behavioral health agency certified for assessment only services may choose to become certified to also provide driving under the influence (DUI) assessment services described in WAC 246-341-0820.

~~(2) ((An agency certified to provide assessment only services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 except where specifically indicated.~~

~~(3)) An agency providing assessment only services:~~

~~(a) Must review, evaluate, and document information provided by the individual;~~

~~(b) May include information from external sources such as family, support individuals, legal entities, courts, and employers; and~~

~~(c) Is not required to meet the individual service plan requirements in WAC ((246-341-0620)) 246-341-0640.~~

~~((4)) (3) An agency must maintain and provide a list of resources, including self-help groups, and referral options that can be used by staff members to refer an individual to appropriate services.~~

~~((5) An agency that offers off-site assessment services must meet the requirements in WAC 246-341-0342.~~

~~(6) An agency providing assessment only services must ensure all assessment only services are provided by a chemical dependency professional (CDP).)~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0742, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0744 Outpatient services—Information and assistance services—Substance use disorder services—General. Information and assistance services are considered nontreatment substance use disorder services provided to support an individual who has a need for interventions related to substance use.

(1) Information and assistance services (~~((require additional program-specific certification by the department and))~~) include:

- (a) Alcohol and drug information school;
- (b) Information and crisis services; and
- (c) Emergency service patrol (~~(; and~~
- ~~(d) Screening and brief intervention)).~~

(2) Substance use disorder information and assistance services (~~((are available without an initial assessment or individual service plan and))~~) are not required to meet the requirements under WAC 246-341-0640.

(3) An agency providing information and assistance services must maintain and provide a list of resources, including self-help groups and referral options, that can be used by staff members to refer an individual to appropriate services.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0744, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0746 Outpatient services—Substance use disorder information and assistance services—Alcohol and drug information school. Alcohol and drug information school services provide an educational program about substance use. These services are for an individual referred by a court or other jurisdiction(s) who may have been assessed and determined not to require treatment. (~~((In addition to meeting requirements for substance use disorder information and assistance services in WAC 246-341-0744,))~~) An agency providing alcohol and drug information school services must:

(1) Ensure courses are taught by a (~~((certified information school instructor or a chemical dependency professional (CDP) who:~~

~~(a) Advises))~~ substance use disorder professional, a substance use disorder professional trainee, or a person who has received documented training in:

- (a) Effects of alcohol and other drugs;
- (b) Patterns of use;
- (c) Current laws and regulations pertaining to substance use violations, and consequences of the violations; and
- (d) Available resources and referral options for additional services that may be appropriate for the individual.

(2) Ensure the curriculum:

- (a) Provides no less than eight hours of instruction for each course;
- (b) Includes a post-test for each course after the course is completed;

(c) Includes a certificate of completion; and

(d) Covers the following topics:

(i) Information about the effects of alcohol and other drugs;

(ii) Patterns of use; and

(iii) Current laws, including Washington state specific laws and regulations, and consequences related to substance use violations.

(3) Ensure each student be advised that there is no assumption the student has a substance use disorder and that the course is not a therapy session;

~~((b) Follows a department approved curriculum;~~

~~(c) Ensures each course has no fewer than eight hours of classroom instruction; and~~

~~(d) Administers each enrolled student the post-test for each course after the course is completed;~~

~~(2) Ensure a school instructor who is not a CDP has a certificate of completion of an alcohol and other drug information school instructor's training course approved by the department, and the personnel file contains documentation of the training; and~~

~~(3-)) (4) Ensure each individual student record contains:~~

~~(a) An intake form, including demographics;~~

~~(b) The hours of attendance, including dates; and~~

~~(c) A copy of the scored post-test.~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0746, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0748 Outpatient services—Substance use disorder information and assistance—Information and crisis services. Substance use disorder information and crisis services provide an individual assistance or guidance related to substance use disorders, twenty-four hours a day by telephone or in person. ~~((In addition to meeting requirements for substance use disorder information and assistance services in WAC 246-341-0744,))~~ An agency providing information and crisis services must:

(1) Have services available to any individual twenty-four hours a day, seven days a week;

(2) Ensure each staff member completes forty hours of training that covers substance use disorders before assigning the staff member unsupervised duties;

~~(3) Ensure a ((chemical dependency professional (CDP), or a chemical dependency professional trainee (CDPT) under supervision of a CDP,))~~ substance use disorder professional or a substance use disorder professional trainee is available or on staff twenty-four hours a day, seven days a week;

(4) Maintain a current directory of all certified substance use disorder service providers in the state; and

(5) Maintain a current list of local resources for legal, employment, education, interpreter, and social and health services.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0748, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0750 Outpatient services—Substance use disorder information and assistance—Emergency service patrol. Emergency service patrol services provide transport assistance to an intoxicated individual in a public place when a request has been received from police, merchants, or other persons. (~~In addition to meeting requirements for substance use disorder information and assistance services in WAC 246-341-0744,~~) An agency providing emergency service patrol services must:

- (1) Ensure the staff member providing the service:
 - (a) Has proof of a valid Washington state driver's license;
 - (b) Possesses annually updated verification of first-aid and cardiopulmonary resuscitation training; and
 - (c) Has completed forty hours of training in substance use disorder crisis intervention techniques and alcoholism and drug abuse, to improve skills in handling crisis situations.
- (2) Respond to calls from police, merchants, and other persons for assistance with an intoxicated individual in a public place;
- (3) Patrol assigned areas and give assistance to an individual intoxicated in a public place;
- (4) Conduct a preliminary screening of an individual's condition related to the state of their impairment and presence of a physical condition needing medical attention;
- (5) Transport the individual to their home or shelter ~~((7))~~ or to a ~~((certified))~~ substance use disorder treatment ~~((provider, or a health care facility))~~ program if the individual is intoxicated, but subdued and willing to be transported;
- (6) Make reasonable efforts to take the individual into protective custody and transport the individual to an appropriate treatment or health care facility, when the individual is incapacitated, unconscious, or has threatened or inflicted harm on another person;
- (7) Call law enforcement for assistance if the individual is unwilling to be taken into protective custody; and
- (8) Maintain a log, including:
 - (a) The date, time and origin of each call received for assistance;
 - (b) The time of arrival at the scene;
 - (c) The location of the individual at the time of the assist;
 - (d) The name ~~((and sex))~~ of the individual transported;
 - (e) The results of the preliminary screening;
 - (f) The destination and address of the transport and time of arrival; and
 - (g) In case of nonpickup of a person, documentation of why the pickup did not occur.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0750, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0754 Outpatient services—Problem gambling and ~~((pathological)) gambling ((treatment)) disorder services.~~ (1) Each agency licensed by the department to provide problem gambling and ~~((pathological)) gambling ((treatment)) disorder services ((provide treatment to an individual)) that includes diagnostic screening and assessment, and individual, group, couples, and family counseling and case management ((. In addition to meeting)) must ensure the following requirements are met:~~

(a) Meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 ~~((an agency that provides problem and pathological gambling treatment services must:~~

~~((1) Have an outline of each education session included in the service that is sufficient in detail for another trained staff person to deliver the session in the absence of the regular instructor));~~

~~((2)) (b) Be a problem gambling certified agency with the department;~~

(c) Maintain a list ~~((or source)) of resources, including self-help groups, and referral options that can be used by staff to refer an individual to appropriate services; and~~

~~((3) Limit the size of group counseling sessions to no more than sixteen individuals; and~~

~~((4)) (d) Maintain a written procedure for the response to medical and psychiatric emergencies.~~

(2) An agency certified to provide problem gambling and gambling disorder services must ensure:

(a) All problem gambling and gambling disorder treatment services are provided by:

(i) An individual credentialed by the department under chapter 18.19, 18.83, or 18.225 RCW and is a certified Washington state, national, or international gambling counselor; or

(ii) An individual credentialed by the department under chapter 18.19, 18.83, or 18.225 RCW, under the supervision of a certified gambling counselor, and in training to become a certified gambling counselor.

(b) Before providing problem gambling and gambling disorder treatment services, an individual in training to become a certified gambling counselor must have a minimum of:

(i) At least one thousand five hundred hours of professionally supervised postlicensure, postcertification, or postregistration experience providing mental health or substance use disorder treatment services; and

(ii) Thirty hours of unduplicated gambling specific training, including the basic training. One of the following state, national, or international organizations must approve the requirements of certification training:

(A) The Washington state gambling counselor certification committee is an independent body comprised of certified gambling counselors and advisory members as deemed appropriate by the committee and is responsible for determining the training and continuing education requirements for gambling counselor certification and gambling counselor supervision and any additional requirements not otherwise specified here;

(B) National or international gambling counselor certification board; or

(C) The health care authority problem gambling program.

(c) An individual who meets subsection (3) of this section must complete training within two years of acceptance to the certification program to become a certified gambling counselor;

(d) All staff members in training to become a certified gambling counselor must receive clinical supervision. The clinical supervisor must:

(i) Hold a valid international gambling counselor certification board-approved clinical consultant credential, a valid Washington state certified gambling counselor II certification credential, or a valid national certified gambling counselor II certification credential; and

(ii) Complete training requirements on problem gambling and gambling disorder specific clinical supervision approved by a state, national, or international organization including, but not limited to, the:

(A) Washington state gambling counselor certification committee;

(B) National or international gambling counselor certification board; or

(C) The health care authority problem gambling program.

(3) An agency that provides only problem gambling-related services, including diagnostic screening, brief intervention, case management, referral to certified problem gambling agencies and educational sessions but does not provide problem gambling assessment and treatment is not required to be certified for problem gambling services.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0754, filed 4/16/19, effective 5/17/19.]

(~~(SECTION EIGHT)~~) INVOLUNTARY AND COURT-ORDERED OUTPATIENT TREATMENT

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0800 Involuntary and court-ordered—Noncompliance reporting for outpatient court-ordered substance use disorder treatment. An agency providing substance use disorder services must report noncompliance, in all levels of care, for an individual ordered into substance use disorder treatment by a court of law or other appropriate jurisdictions (~~(. An agency that fails to report noncompliance for an individual under chapter 46.61 RCW is subject to penalties as stated in RCW 46.61.5056(4). An agency providing treatment to a court-mandated individual, including deferred prosecution, must develop procedures addressing individual noncompliance and reporting requirements, including:~~

~~(1) Completing an authorization to release confidential information form that meets the requirements of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160 and 164 or through a court order authorizing the disclosure pursuant to 42 C.F.R. Part 2, Sections 2.63 through 2.67;~~

~~(2) Notifying the designated crisis responder within three working days from obtaining information of any violation of the terms of the court order for purposes of revocation of the individual's conditional release, or department of corrections (DOC) if the individual is under DOC supervision;~~

~~(3) Reporting and recommending)) in accordance with RCW 71.05.445 and chapter 182-538D WAC for individuals receiving court-ordered services under chapter 71.05 RCW, RCW 10.05.090 for individuals under deferred prosecution, or RCW 46.61.5056 for individuals receiving court-ordered treatment for driving under the influence (DUI). Additionally, agencies providing services to individuals under a court-order for deferred prosecution under RCW 10.05.090 RCW or treatment under RCW 46.61.5056 must:~~

~~(1) Report and recommend~~ action for emergency noncompliance to the court or other appropriate jurisdiction(s) within three working days from obtaining information on:

(a) An individual's failure to maintain abstinence from alcohol and other nonprescribed drugs as verified by individual's self-report, identified third-party report confirmed by the agency, or blood alcohol content or other laboratory test;

(b) An individual's report of subsequent alcohol or drug related arrests; or

(c) An individual leaving the program against program advice or an individual discharged for rule violation;

~~((4) Reporting and recommending))~~ ~~(2) Report and recommend~~ action for nonemergency, noncompliance to the court or other appropriate jurisdiction(s) within ten working days from the end of each reporting period, upon obtaining information on:

(a) An individual's unexcused absences or failure to report, including failure to attend mandatory self-help groups; or

(b) An individual's failure to make acceptable progress in any part of the treatment plan.

~~((5) Transmitting))~~ ~~(3) Transmit information on~~ noncompliance or other significant changes as soon as possible, but no longer than ten working days from the date of the noncompliance, when the court does not wish to receive monthly reports;

~~((6) Reporting))~~ ~~(4) Report~~ compliance status of persons convicted under chapter 46.61 RCW to the department of licensing.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0800, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0805 Involuntary and court-ordered—Outpatient less restrictive alternative (LRA) or conditional release support behavioral health services. ~~((Less restrictive alternative (LRA) support and conditional release behavioral health services are provided to individuals on a less restrictive alternative court order or conditional~~

release.)) An agency (~~(agrees to)~~) servicing individuals on a less restrictive alternative (LRA) or conditional release court order shall provide or monitor the provision of court-ordered services, including psychiatric, substance use disorder treatment, and medical components of community support services. (~~(In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650,)~~) An agency providing court-ordered LRA support and conditional release services (~~(must do all of the following)~~) shall:

(1) Have a written policy and procedure that allows for the referral of an individual to an involuntary treatment facility twenty-four hours a day, seven days a week.

(2) Have a written policy and procedure for an individual who requires involuntary detention that includes procedures for:

(a) Contacting the designated crisis responder (DCR) regarding revocations or extension of an LRA or conditional release; and

(b) The transportation of an individual, in a safe and timely manner, for the purpose of:

(i) Evaluation; or

(ii) Evaluation and detention.

(3) Ensure (~~(a committed)~~) the individual is (~~(advised of)~~) provided everything their rights afford them to and protect them from under chapter 71.05 or 71.34 RCW, as applicable(~~(, and that the individual has the right:~~

~~(a) To receive adequate care and individualized treatment;~~

~~(b) To make an informed decision regarding the use of antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the individual has the right to attend;~~

~~(c) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation and treatment for a mental health disorder or substance use disorder;~~

~~(d) Of access to attorneys, courts, and other legal redress;~~

~~(e) To be told statements the individual makes may be used in the involuntary proceedings; and~~

~~(f) To have all information and records compiled, obtained, or maintained in the course of treatment kept confidential as described in chapters 70.02, 71.05, and 71.34 RCW).~~

(4) Include in the clinical record a copy of the less restrictive alternative court order or conditional release and a copy of any subsequent modification.

(5) Ensure the (~~(development and implementation of an)~~) individual service plan (~~(which)~~) addresses the conditions of the less restrictive alternative court order or conditional release and a plan for transition to voluntary treatment.

(6) Ensure that the individual receives (~~(psychiatric)~~) medication services (~~(or medication assisted treatment for the)~~) including an assessment of the need for and prescription of (~~(psychotropic)~~) medications to treat mental health or substance use disorders (~~(treatment medications)~~), appropriate to the needs of the individual as follows:

(a) At least one time in the initial fourteen days following release from inpatient treatment for an individual on a ninety-day or one hundred eighty-day less restrictive alternative court order or conditional release, unless the individual's attending physician, physician assistant, or psychiatric advanced registered nurse practitioner (ARNP) determines another schedule is more appropriate and

documents the new schedule and the reason(s) in the individual's clinical record; and

(b) At least one time every thirty days for the duration of the less restrictive alternative court order or conditional release, unless the individual's attending physician, physician assistant, or psychiatric ARNP determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record.

(7) Keep a record of the periodic evaluation (~~(by a mental health professional for a mental health disorder or a chemical dependency professional for substance use disorder treatment,)~~) of each committed individual for release from, or continuation of, an involuntary treatment order. Evaluations must occur at least every thirty days for the duration of the commitments and include documentation of (~~assessment~~) the evaluation and rationale:

(a) For requesting a petition for an additional period of less restrictive or conditional release treatment under an involuntary treatment order; or

(b) Allowing the less restrictive court order or conditional release to expire without an extension request.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0805, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0810 Involuntary and court-ordered—(~~Emergency individual detention mental health and substance use disorder~~) Designated crisis responder (DCR) services. (~~Emergency involuntary detention~~) Designated crisis responder (DCR) services are services provided by a (~~designated crisis responder~~(+)) DCR(+) to evaluate an individual in crisis and determine if involuntary services are required. (~~In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650, an agency certified to provide emergency involuntary detention services~~) An agency providing DCR services must meet the general requirements for crisis services in WAC 246-341-0900 and must do all of the following:

(1) Ensure that services are provided by a DCR.

(2) (~~Ensure staff members are available twenty-four hours a day, seven days a week.~~

~~(3))~~ Ensure staff members utilize the protocols for DCRs required by RCW 71.05.214.

~~((4) Have a written agreement with a certified inpatient evaluation and treatment or secure withdrawal management and stabilization facility to allow admission of an individual twenty-four hours a day, seven days a week.~~

~~(5) Have a plan for training, staff back-up, information sharing, and communication for a staff member who responds to a crisis in a private home or a nonpublic setting.~~

~~(6) Ensure that a DCR is able to be accompanied by a second trained individual when responding to a crisis in a private home or a nonpublic setting.~~

~~(7) Ensure that a DCR who engages in a home visit to a private home or a nonpublic setting is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication as described in RCW 71.05.710.~~

~~(8) Provide staff members, who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.~~

~~(9) Have a written protocol for the transportation of an individual, in a safe and timely manner, for the purpose of medical evaluation or detention.~~

~~(10)) (3) Document that services provided to the individual (, and other applicable information. At a minimum this must include:~~

~~(a) That the individual was advised of their rights in accordance with RCW 71.05.360;~~

~~(b) That if the evaluation was conducted in a hospital emergency department or inpatient unit, it occurred in accordance with the timelines required by RCW 71.05.050, 71.05.153, and 71.34.710;~~

~~(c) That the DCR conducting the evaluation considered both of the following when evaluating the individual:~~

~~(i) The imminent likelihood of serious harm or imminent danger because of being gravely disabled (see RCW 71.05.153); and~~

~~(ii) The likelihood of serious harm or grave disability that does not meet the imminent standard for the emergency detention (see RCW 71.05.150).~~

~~(d) That the DCR documented consultation with any examining emergency room physician as required by RCW 71.05.154;~~

~~(e) If the individual was not detained:~~

~~(i) A description of the disposition and follow-up plan; and~~

~~(ii) Documentation that the minor's parent was informed of their right to request a court review of the DCR's decision not to detain the minor under RCW 71.34.710, if the individual is a minor thirteen years of age or older.~~

~~(f) If the individual was detained, a petition for initial detention must include the following:~~

~~(i) The circumstances under which the person's condition was made known;~~

~~(ii) Evidence, as a result of the DCR's personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that the individual is gravely disabled;~~

~~(iii) Evidence that the individual will not voluntarily seek appropriate treatment;~~

~~(iv) Consideration of all reasonably available information from credible witnesses, to include family members, landlords, neighbors, or others with significant contact and history of involvement with the individual, and records, as required by RCW 71.05.212; and~~

~~(v) Consideration of the individual's history of judicially required, or administratively ordered, anti-psychotic medications while in confinement when conducting an evaluation of an offender under RCW 72.09.370.~~

~~(g) Documentation that the individual, or the individual's guardian or conservator, received a copy of the following:~~

~~(i) Notice of detention;~~

~~(ii) Notice of rights; and~~
~~(iii) Initial petition))~~ were in accordance with the requirements in chapter 71.05 or 71.34 RCW, as applicable.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0810, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0815 Involuntary and court-ordered—Substance use disorder counseling for RCW 46.61.5056. ~~((In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650,))~~ An agency providing certified substance use disorder counseling services to an individual convicted of driving under the influence or physical control under RCW 46.61.5056 must ensure treatment is completed as follows:

- (1) Treatment during the first sixty days must include:
 - (a) Weekly group or individual substance use disorder counseling sessions according to the individual service plan;
 - (b) One individual substance use disorder counseling session of not less than thirty minutes duration, excluding the time taken for a substance use disorder assessment, for each individual, according to the individual service plan;
 - (c) Alcohol and drug basic education for each individual;
 - (d) Participation in recovery oriented, community-based self-help groups ~~((for an individual with a diagnosis of substance use disorder))~~ according to the individual service plan. Participation must be documented in the individual's clinical record; and
 - (e) ~~((The balance of the sixty-day time period for))~~ Individuals who complete intensive inpatient substance use disorder treatment services must ~~((include))~~ attend, at a minimum, weekly outpatient counseling sessions for the remainder of their first sixty days of treatment according to the individual service plan.
- (2) The next one hundred twenty days of treatment at a minimum shall include~~((s))~~:
 - (a) Group or individual substance use disorder counseling sessions every two weeks according to the individual service plan;
 - (b) One individual substance use disorder counseling session of not less than thirty minutes duration, every sixty days according to the individual service plan; and
 - (c) Referral of each individual for ongoing treatment or support, as necessary, using ASAM criteria, upon completion of one hundred eighty days of treatment.
- (3) ~~((For))~~ An individual who is assessed with insufficient evidence of a substance use disorder~~((, a substance use disorder professional (CDP) must refer the individual))~~ must be referred to alcohol/drug information school.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0815, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0820 Involuntary and court-ordered—Driving under the influence (DUI) substance use disorder assessment services. Driving under the influence (DUI) assessment services, as defined in chapter 46.61 RCW, are provided to an individual to determine the individual's involvement with alcohol and other drugs and determine the appropriate course of care or referral.

(1) (~~(In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650,~~) An agency certified to provide DUI assessment services:

(a) Must review, evaluate, and document information provided by the individual;

(b) May include in the assessment information from external sources such as family, support individuals, legal entities, courts, and employers;

(c) Is not required to meet the individual service plan requirements in WAC ((~~246-341-0620~~)) 246-341-0640 (1)(d); and

(d) Must maintain and provide a list of resources, including self-help groups, and referral options that can be used by staff members to refer an individual to appropriate services.

(2) An agency certified to provide DUI assessment services must also ensure:

(a) The assessment is conducted in person; and

(b) The individual has a summary included in the assessment that evaluates the individual's:

(i) Blood or breath alcohol level and other drug levels, or documentation of the individual's refusal at the time of the arrest, if available; and

(ii) Self-reported driving record and the abstract of the individual's legal driving record.

(3) When the assessment findings do not result in a substance use disorder diagnosis, the assessment must also include:

(a) A copy of the police report;

(b) A copy of the court originated criminal case history;

(c) The results of a urinalysis or drug testing obtained at the time of the assessment; and

(d) A referral to alcohol and drug information school.

(4) If the information in subsection (3)(a) through (d) of this section is required and not readily available, the record must contain documentation of attempts to obtain the information.

(5) Upon completion of the DUI assessment, the individual must be:

(a) Informed of the results of the assessment; and

(b) Referred to the appropriate level of care according to ASAM criteria.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0820, filed 4/16/19, effective 5/17/19.]

~~((SECTION NINE—))~~ CRISIS OUTPATIENT MENTAL HEALTH SERVICES

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0900 Crisis mental health services—General. Crisis mental health services are intended to stabilize an individual in crisis to prevent further deterioration, provide immediate treatment and intervention in a location best suited to meet the needs of the individual, and provide treatment services in the least restrictive environment available. ~~((An agency certified to provide crisis mental health services must meet the general requirements in WAC 246-341-0300 through 246-341-0650 except the initial assessment, individual service plan, and clinical record requirements in WAC 246-341-0610, 246-341-0620, and 246-341-0640.))~~

(1) Crisis services include:

(a) Crisis telephone support;

(b) Crisis outreach services; and

(c) Crisis stabilization services ~~((;~~

~~(d) Crisis peer support services; and~~

~~(e) Emergency involuntary detention services))~~.

(2) An agency providing crisis mental health services does not need to meet the requirements in WAC 246-341-0640.

(3) An agency providing any crisis mental health service must ((ensure)):

~~(a) ((All crisis services are provided by, or under the supervision of, a mental health professional;~~

~~(b) Each staff member working directly with an individual receiving any crisis mental health service receives:~~

~~(i) Clinical supervision from a mental health professional; and~~

~~(ii) Annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.030. The staff member's personnel record must document the training.~~

~~(c) Staff access to consultation with one of the following professionals who has at least one year's experience in the direct treatment of individuals who have a mental or emotional disorder:~~

~~(i) A psychiatrist;~~

~~(ii) A physician;~~

~~(iii) A physician assistant; or~~

~~(iv) An advanced registered nurse practitioner (ARNP) who has prescriptive authority.~~

~~(3) Subsection (2)(c) of this section does not apply to agencies that only provide crisis telephone services.~~

(4)) Require that trained staff remain, in person or on the phone, with the individual in crisis in order to provide stabilization and support until the crisis is resolved or referral to another service is accomplished;

(b) Determine if an individual has a crisis plan and request a copy if available;

(c) As appropriate, refer individuals to voluntary or involuntary treatment facilities for admission on a seven-day-a-week, twenty-four-hour-a-day basis, including arrangements for contacting the designated crisis responder;

(d) Transport or arrange for transport of an individual in a safe and timely manner, when necessary;

(e) Be available twenty-four hours a day, seven days a week, unless providing only crisis stabilization services; and

(f) Include family members, significant others, and other relevant treatment providers, as necessary, to provide support to the individual in crisis.

(4) When services are provided in a private home or nonpublic setting the agency must:

(a) Have a written plan for training, staff back-up, information sharing, and communication for staff members who respond to a crisis in an individual's personal residence or in a nonpublic setting;

(b) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when services are provided in the individual's personal residence or other nonpublic location;

(c) Ensure that any staff member who engages in home visits is provided access, by their employer, to a wireless telephone or comparable device for the purpose of emergency communication as described in RCW 71.05.710;

(d) Provide staff members who are sent to a private home or other private location to evaluate an individual in crisis prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(5) Documentation of a crisis service must include the following, as applicable to the crisis service provided:

(a) A brief summary of each crisis service encounter, including the date, time, and duration of the encounter;

(b) The names of the participants; ((and))

(c) A follow-up plan or disposition, including any referrals for services, including emergency medical services((-

~~(5) An agency must ensure crisis service:~~

~~(a) Are, with the exception of stabilization services, available twenty-four hours a day, seven days a week;~~

~~(b) Include family members, significant others, and other relevant treatment providers, as necessary, to provide support to the individual in crisis;~~

~~(c) Are provided in a setting that provides for the safety of the individual and agency staff members; and~~

~~(d) Require that trained staff remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or referral to another service is accomplished);~~

(d) Whether the individual has a crisis plan and any request to obtain the crisis plan; and

(e) The name and credential of the staff person providing the service.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0900, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0905 Crisis mental health services—Telephone support services. Mental health telephone support services are services provided as a means of first contact to an individual in crisis. These services may include de-escalation and referral.

~~(1) ((In addition to meeting the general requirements for crisis services in WAC 246-341-0900,)) An agency certified to provide telephone support services must ((:~~

~~(a) Respond to crisis calls twenty-four hours a day, seven days a week;~~

~~(b) Have a written protocol for the referral of an individual to a voluntary or involuntary treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis, including arrangements for contacting the designated crisis responder;~~

~~(c)) assure communication and coordination with the individual's mental health care provider, if indicated and appropriate((; and~~

~~(d) Post a copy of the statement of individual rights in a location visible to staff and agency volunteers)).~~

~~(2) An agency ((must document each telephone crisis response contact made, including:~~

~~(a) The date, time, and duration of the telephone call;~~

~~(b) The relationship of the caller to the person in crisis, for example self, family member, or friend;~~

~~(c) Whether the individual in crisis has a crisis plan; and~~

~~(d) The outcome of the call, including:~~

~~(i) Any follow-up contacts made;~~

~~(ii) Any referrals made, including referrals to emergency or other medical services; and~~

~~(iii) The name of the staff person who took the crisis call))~~

providing telephone services only is not required to follow the consultation requirement in WAC 246-341-0515(3).

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0905, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0910 Crisis mental health services—Outreach services. Crisis mental health outreach services are face-to-face intervention services provided to assist individuals in a community setting. A community setting can be an individual's home, an emergency room, a nursing facility, or other private or public location. ~~((In addition to meeting the general requirements for crisis services in WAC 246-341-0900,))~~

~~(1) An agency certified to provide crisis outreach services must ((do all of the following)):~~

~~((1)) (a) Provide crisis telephone screening.~~

~~((2)) (b) Ensure face-to-face outreach services are provided by a mental health professional((, or a mental health care provider under the supervision of a mental health professional)) or a department-credentialed staff person with documented training in crisis response.~~

~~((3) Ensure services are provided in a setting that provides for the safety of the individual and agency staff members.~~

~~(4) Have a protocol for requesting a copy of an individual's crisis plan twenty-four hours a day, seven days a week.~~

~~(5) Require that staff member(s) remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or a referral to another service is accomplished.~~

~~(6-)) (c) Resolve the crisis in the least restrictive manner possible.~~

~~((7) Have a written plan for training, staff back-up, information sharing, and communication for staff members who respond to a crisis in an individual's private home or in a nonpublic setting.~~

~~(8) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when services are provided in the individual's home or other nonpublic location.~~

~~(9) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device for the purpose of emergency communication as described in RCW 71.05.710.~~

~~(10) Provide staff members who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.~~

~~(11) Have a written protocol that allows for the referral of an individual to a voluntary or involuntary treatment facility twenty-four hours a day, seven days a week.~~

~~(12) Have a written protocol for the transportation of an individual in a safe and timely manner, when necessary.~~

~~(13) Document all crisis response contacts, including:~~

~~(a) The date, time, and location of the initial contact;~~

~~(b) The source of referral or identity of caller;~~

~~(e-)) (2) An agency utilizing certified peer counselors to provide crisis outreach services must:~~

~~(a) Ensure services are provided by a person recognized by the health care authority as a peer counselor, as defined in WAC 246-341-0200;~~

~~(b) Ensure services provided by a peer counselor are within the scope of the peer counselor's training and credential;~~

~~(c) Ensure that a peer counselor responding to an initial crisis visit is accompanied by a mental health professional;~~

~~(d) Develop and implement policies and procedures for determining when peer counselors may provide follow-up crisis outreach services without being accompanied by a mental health professional; and~~

~~(e) Ensure peer counselors receive annual training that is relevant to their unique working environment.~~

~~(3) In addition to the documentation requirements in WAC 246-341-0900, documentation must include:~~

~~(a) The nature of the crisis;~~

~~((d) Whether the individual has a crisis plan and any attempts to obtain a copy;~~

~~(e-)) (b) The time elapsed from the initial contact to the face-to-face response;~~

~~((f-)) (c) The outcome, including(†~~

~~(i-)) the basis for a decision not to respond in person(†~~

- ~~(ii) Any follow-up contacts made; and~~
- ~~(iii) Any referrals made, including referrals to emergency medical services.~~
- ~~(g) The name of the staff person(s) who responded to the crisis).~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0910, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-0915 Crisis mental health services—Stabilization services. Crisis mental health stabilization services include short-term (less than two weeks per episode) face-to-face assistance with life skills training and understanding of medication effects on an individual. Stabilization services may be provided to an individual as a follow-up to crisis services provided or to any individual determined by a mental health professional to need ~~((additional))~~ stabilization services. ~~((In addition to meeting the general requirements for crisis services in WAC 246-341-0900, an agency certified to provide crisis stabilization services must:~~

- ~~(1) Ensure the services are provided by a mental health professional, or under the supervision of a mental health professional;~~
- ~~(2) Ensure the services are provided in a setting that provides for the safety of the individual and agency staff;~~
- ~~(3) Have a written plan for training, staff back-up, information sharing, and communication for staff members who are providing stabilization services in an individual's private home or in a nonpublic setting;~~
- ~~(4) Have a protocol for requesting a copy of an individual's crisis plan;~~
- ~~(5) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when services are provided in the individual's home or other nonpublic location;~~
- ~~(6) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication as described in RCW 71.05.710;~~
- ~~(7) Have a written protocol that allows for the referral of an individual to a voluntary or involuntary treatment facility;~~
- ~~(8) Have a written protocol for the transportation of an individual in a safe and timely manner, when necessary; and~~
- ~~(9) Document all crisis stabilization response contacts, including identification of the staff person(s) who responded.)~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0915, filed 4/16/19, effective 5/17/19.]

~~((SECTION TEN))~~ OPIOID TREATMENT PROGRAMS (OTP)

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1000 Opioid treatment programs (OTP)—General. (1)

Opioid treatment programs ~~((services include the dispensing of an opioid treatment medication, along with a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects incident to opioid use disorder. These))~~ (OTP) may order, possess, dispense, and administer medications approved by the United States Food and Drug Administration for the treatment of opioid use disorder, alcohol use disorder, tobacco use disorder, and reversal of opioid overdose. OTP services include withdrawal management ~~((treatment))~~ and maintenance treatment along with evidence-based therapy.

(2) ~~((An agency must meet all the certification requirements in WAC 246-341-1005 in order to provide opioid treatment program services and:~~

- ~~(a) Be licensed by the department as a behavioral health agency;~~
- ~~(b) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650; and~~
- ~~(c) Have policies and procedures to support and implement the:~~
 - ~~(i) General requirements in WAC 246-341-0420; and~~
 - ~~(ii) Program-specific requirements in WAC 246-341-1000 through 246-341-1025.~~

~~(3))~~ An agency providing opioid treatment program services must ensure that the agency's individual record system complies with all federal and state reporting requirements relevant to opioid drugs approved for use in treatment of opioid use disorder, alcohol use disorder, tobacco use disorder, and reversal of opioid overdose.

~~((4))~~ (3) An agency must:

~~(a) Use ((ASAM criteria for admission, continued services, and discharge planning and decisions;~~

~~(b)) evidence-based therapy in addition to medication in the treatment program;~~

~~(b) Identify individual mental health needs during assessment process and refer them to appropriate treatment if not available on-site;~~

~~(c) Provide education to each individual admitted, totaling no more than fifty percent of treatment services, on:~~

- ~~(i) Alcohol, other drugs, and substance use disorder;~~
- ~~(ii) Relapse prevention;~~
- ~~(iii) ((Bloodborne pathogens)) Infectious diseases including human immunodeficiency virus (HIV) and hepatitis A, B, and C; ((and))~~
- ~~(iv) Sexually transmitted infections; and~~
- ~~(v) Tuberculosis (TB);~~

~~((e))~~ (d) Provide ~~((education or))~~ information to each individual on:

(i) Emotional, physical, and sexual abuse;

(ii) Nicotine use disorder;

(iii) The impact of substance use during pregnancy, risks to the developing fetus before prescribing any medications to treat opioid use disorder, the risks to both the expecting parent and fetus of not treating opioid use disorder, and the importance of informing medical practitioners of substance use during pregnancy; and

(iv) Family planning.

~~((d) Have written))~~ (e) Create and implement policies and procedures for:

(i) Diversion control that contains specific measures to reduce the possibility of the diversion of controlled substances from legitimate treatment use, and assign specific responsibility to the medical and administrative staff members for carrying out the described diversion control measures and functions;

(ii) Urinalysis and drug testing, to include ~~((obtaining))~~:

(A) Obtaining specimen samples from each individual, at least eight times within twelve consecutive months;

(B) Documentation indicating the clinical need for additional urinalysis;

(C) Random samples, without notice to the individual;

~~((C))~~ (D) Samples in a therapeutic manner that minimizes falsification;

~~((D))~~ (E) Observed samples, when clinically appropriate; and

~~((E))~~ (F) Samples handled through proper chain of custody techniques.

(iii) Laboratory testing;

(iv) The response to medical and psychiatric emergencies; and

(v) Verifying the identity of an individual receiving treatment services, including maintaining a file in the dispensary with a photograph of the individual and updating the photographs when the individual's physical appearance changes significantly.

~~((5))~~ (4) An agency must ensure that an individual is not admitted to opioid treatment withdrawal management services more than two times in a twelve-month period following admission to services.

~~((6))~~ (5) An agency providing services to a pregnant woman must have a written procedure to address specific issues regarding their pregnancy and prenatal care needs, and to provide referral information to applicable resources.

~~((7))~~ (6) An agency providing youth opioid treatment program services must:

(a) ~~((Have a written procedure to assess and refer the youth to the department of children, youth, and families, when applicable;~~

~~(b) Ensure that a group counseling session with twelve to sixteen youths include a second staff member;~~

~~(c))~~ Ensure that before admission the youth has had two documented attempts at short-term withdrawal management or drug-free treatment within a twelve-month period, with a waiting period of no less than seven days between the first and second short-term withdrawal management treatment; and

~~((d))~~ (b) Ensure that when a youth is admitted for maintenance treatment, written consent by a parent or if applicable, legal guardian or responsible adult designated by the relevant state authority, is obtained.

~~((8))~~ (7) An agency providing opioid treatment program services must ensure:

(a) That notification to the federal Substance Abuse and Mental Health Services Administration (SAMHSA) and the department is made within three weeks of any replacement or other change in the status of the program, program sponsor (~~(+)~~) as defined in 42 C.F.R. Part 8(~~(+)~~), or medical director;

(b) Treatment is provided to an individual in compliance with 42 C.F.R. Part 8;

(c) The individual record system complies with all federal and state reporting requirements relevant to opioid drugs approved for use in treatment of opioid use disorder; and

(d) The death of an individual enrolled in an opioid treatment program is reported to the department within (~~one business day~~) forty-eight hours.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1000, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1005 Opioid treatment programs (OTP)—Agency certification requirements. An agency applying to provide opioid treatment program services must (~~do all of the following~~):

(1) Submit to the department documentation that the agency has communicated with the county legislative authority and if applicable, the city legislative authority or tribal authority, in order to secure a location for the new opioid treatment program that meets county, tribal or city land use ordinances.

(2) Ensure that a community relations plan developed and completed in consultation with the county, city, or tribal authority or their designee, in order to minimize the impact of the opioid treatment programs upon the business and residential neighborhoods in which the program is located. A community relations plan is a plan to minimize the impact of an opioid treatment program as defined by the Center for Substance Abuse Guidelines for the Accreditation of Opioid Treatment Programs, section 2.C.(4). The plan must include:

(a) Documentation of the strategies used to:

(i) Obtain stakeholder input regarding the proposed location;

(ii) Address any concerns identified by stakeholders; and

(iii) Develop an ongoing community relations plan to address new concerns expressed by stakeholders.

(b) For new applicants who operate opioid treatment programs in another state, copies of all (~~survey~~) review reports written by their national accreditation body and state certification, if applicable, within the past six years.

(3) Have concurrent approval to provide an opioid treatment program by:

(a) The Washington state department of health (~~board of~~) pharmacy quality assurance commission;

(b) The (~~federal~~) United States Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Administration (SAMHSA), as required by 42 C.F.R. Part 8 for certification as an opioid treatment program; and

(c) The ~~((federal))~~ United States Drug Enforcement Administration (DEA).

(4) An agency must ensure that the opioid treatment program is provided to an individual in compliance with the applicable requirements in 42 C.F.R. Part 8 and 21 C.F.R. Part 1301.

(5) The department may deny an application for certification when the applicant has not demonstrated in the past, the capability to provide the appropriate services to assist individuals using the program to meet goals established by the legislature.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1005, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1010 Opioid treatment programs (OTP)—Agency staff requirements. ~~((In addition to meeting the agency administrative and personnel requirements in WAC 246-341-0400 through 246-341-0530,))~~ An agency providing substance use disorder opioid treatment program services must:

(1) Appoint a program sponsor, as defined in 42 C.F.R. Part 8, who is responsible for notifying the ~~((federal))~~ United States Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), the ~~((federal))~~ United States Drug Enforcement Administration (DEA), the department, and the Washington ~~((state board of))~~ pharmacy quality assurance commission of any theft or significant loss of a controlled substance that resulted in filing a DEA Form 106.

(2) Ensure there is an appointed medical director, as defined in 42 C.F.R. Part 8, who:

(a) Is licensed by the department under chapter 18.57 RCW or the Washington medical commission under chapter 18.71 RCW to practice medicine and practices within their scope of practice;

(b) Is responsible for all medical services performed; ~~((and))~~

(c) Ensures all medical services provided are in compliance with applicable federal, state, and local rules and laws.

~~(3) ((Ensure all medical services provided are provided by an appropriate DOH-credentialed medical provider practicing within their scope of practice.~~

~~(4))~~ Ensure at least one staff member has documented training in:

(a) Family planning;

(b) Prenatal health care; and

(c) Parenting skills.

~~((5))~~ (4) Ensure that at least one staff member is on duty at all times who has documented training in:

(a) Cardiopulmonary resuscitation (CPR); and

(b) Management of opioid overdose.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1010, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1015 Opioid treatment programs (OTP)—Clinical record content and documentation requirements. (~~(In addition to the general clinical record content requirements in WAC 246-341-0640,)~~) An agency providing (~~(substance use disorder)~~) opioid treatment program services must maintain an individual's clinical record. The clinical record must contain:

(1) Documentation that the agency made a good faith effort to review if the individual is enrolled in any other opioid treatment program and take appropriate action;

(2) Documentation that the individual received a copy of the rules and responsibilities for treatment participants, including the potential use of interventions or sanction;

(3) Documentation that the individual service plan was reviewed quarterly and semi-annually after two years of continuous treatment;

(4) Documentation when an individual refuses to provide a drug testing specimen sample. The refusal is considered a positive drug screen specimen;

(5) Documentation in progress notes of (~~(the results and the discussion held with the individual regarding any positive drug screen specimens in the counseling session immediately following the notification of positive results; and)~~) timely interventions used to therapeutically address the disclosure of illicit drug use, a positive drug test, or possible diversion of opioid medication, as evidenced by the absence of opioids or related metabolites in drug toxicology test results;

(6) Documentation of all medical services (~~(see WAC 246-341-1020 and 246-341-1025 regarding program physician responsibility and medication management)~~) including:

(a) Results of physical examination;

(b) Medical and family history;

(c) Nursing notes;

(d) Laboratory reports including results of regular toxicology screens, a problem list, and list of medications updated as clinically indicated; and

(e) Progress notes including documentation of all medications and dosages, if available.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1015, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1020 Opioid treatment programs (OTP)—(~~(Program physician)~~) Medical director responsibility. An agency providing substance use disorder opioid treatment program services must ensure the program physician, or the medical practitioner under supervision of the (~~(program physician)~~) medical director, performs and meets the following:

(1) The program physician or medical practitioner under supervision of the (~~(program physician)~~) medical director:

- (a) Is responsible to verify an individual is currently addicted to an opioid drug and that the (~~person~~) individual became addicted at least twelve months before admission to treatment; or
- (b) May waive the twelve month requirement in (a) of this subsection upon receiving documentation that the individual:
- (i) Was released from a penal institution, if the release was within the previous six months;
- (ii) Is pregnant; or
- (iii) Was previously treated within the previous twenty-four months.
- (2) A documented physical evaluation must be completed on the individual before admission and before starting medications approved to treat opioid use disorder that includes the determination of opioid use disorder consistent with the current and applicable Diagnostic and Statistical Manual of Mental Disorders (DSM-5) criteria (~~, and an assessment for appropriateness for Sunday and holiday take-home medication~~);
- (3) A documented review (~~(must be completed by)~~) of the department prescription drug monitoring program data on the individual:
- (a) At admission;
- (b) Annually after the date of admission; and
- (c) Subsequent to any incidents of concern.
- (4) All relevant facts concerning the use of the opioid drug must be clearly and adequately explained to each individual;
- (5) Current written and verbal information must be provided to pregnant individuals, before the initial prescribed dosage regarding:
- (a) The concerns of possible substance use disorder, health risks, and benefits the opioid treatment medication may have on the individual and the developing fetus;
- (b) The risk of not initiating opioid treatment medication on the individual and the developing fetus; (~~and~~)
- (c) The potential need for the newborn baby to be treated in a hospital setting or in a specialized support environment designed to address and manage neonatal opioid or other drug withdrawal syndromes; and
- (d) Referral options to address (~~(neonatal abstinence syndrome for the baby)~~) and manage neonatal opioid or other drug withdrawal syndromes.
- (6) Each individual voluntarily choosing to receive maintenance treatment must sign an informed consent to treatment;
- (7) Within fourteen days of admission, a medical examination must be completed that includes:
- (a) Documentation of the results of serology and other tests, as determined by the medical practitioner; and
- (b) (~~An~~) A documented assessment for the appropriateness of Sunday and holiday take-home medications as required by 42 C.F.R. Part 8.12(i).
- (8) When exceptional circumstances exist for an individual to be enrolled with more than one opioid treatment program agency, justification granting permission must be documented in the individual's clinical record at each agency;
- (9) Each individual admitted to withdrawal management services must have an approved withdrawal management schedule that is medically appropriate;
- (10) Each individual administratively discharged from services must have an approved withdrawal management schedule that is medically appropriate;

(11) An assessment for other forms of treatment must be completed for each individual who has two or more unsuccessful withdrawal management episodes within twelve consecutive months; and

(12) An annual medical examination must be completed on each individual that includes the individual's overall physical condition and response to medication.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1020, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1025 Opioid treatment programs (OTP)—Medication management. An agency providing (~~(substance use disorder)~~) opioid treatment program services must ensure the medication management requirements in this section are met.

(1) An agency must use only those opioid treatment medications that are approved by the United States Food and Drug Administration under section 505 of the (~~(federal)~~) United States Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opioid use disorder.

(2) (~~(An agency providing an opioid treatment program that is fully compliant with the procedures of an investigational use of a drug and other conditions set forth in the application may administer a drug that has been authorized by the Food and Drug Administration under an investigational new drug application under section 505(i) of the federal Food, Drug, and Cosmetic Act for investigational use in the treatment of opioid addiction. The following opioid treatment medications are approved by the Food and Drug Administration for use in the treatment of opioid use disorder:~~

~~(a) Methadone; and~~

~~(b) Buprenorphine.~~

~~(3))~~) An agency providing opioid treatment program services must ensure that initial dosing requirements are met as follows:

(a) Methadone must be administered or dispensed only in oral form and is formulated in such a way as to reduce its potential for parenteral abuse;

(b) The initial dose of methadone must not exceed thirty milligrams and the total dose for the first day must not exceed forty milligrams, unless the program physician documents in the individual's record that forty milligrams did not suppress opioid abstinence symptoms; and

(c) The establishment of the initial dose must consider:

(i) Signs and symptoms of withdrawal;

(ii) Individual comfort; and

(iii) Side effects from over medication.

~~((4))~~) (3) An agency providing an opioid treatment program services must ensure that:

(a) Each opioid treatment medication used by the program is administered and dispensed in accordance with its approved product labeling;

(b) Each individual admitted to an opioid treatment program shall receive overdose prevention education and information on how to access opioid overdose reversal medication;

(c) All dosing and administration decisions are made by a:

(i) Program physician; or

(ii) Medical practitioner under supervision of a program physician familiar with the most up-to-date product labeling.

~~((e))~~ (d) Any significant deviations from the approved labeling, including deviations with regard to dose, frequency, or the conditions of use described in the approved labeling, are specifically documented in the individual's record.

~~((5))~~ (4) An agency providing opioid treatment program services must ensure that all take-home medications are:

(a) Consistent with 42 C.F.R. Part 8.12 (i)(1) through (5) and are authorized only to stable individuals who:

(i) Have received opioid treatment medication for a minimum of ninety days; and

(ii) Have not had any positive drug screens in the last sixty days.

(b) Assessed and authorized, as appropriate, for a Sunday or legal holiday as identified in RCW 1.16.050;

(c) Assessed and authorized, as appropriate, when travel to the facility presents a safety risk for an individual or staff member due to inclement weather; and

(d) Not allowed in short-term withdrawal management or interim maintenance treatment.

~~((6))~~ (5) Registered nurses and licensed practical nurses may dispense up to a thirty-one day supply of medications approved by the United States Food and Drug Administration for the treatment of opioid use disorder under an order or prescription.

(6) All exceptions to take-home requirements must be submitted and approved by the state opioid treatment authority and Substance Abuse and Mental Health Services Administration (SAMHSA).

(7) An agency providing opioid treatment program services may accept, possess, and administer patient-owned medications.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1025, filed 4/16/19, effective 5/17/19.]

GENERAL REQUIREMENTS THAT APPLY TO RESIDENTIAL AND INPATIENT SERVICES

NEW SECTION

WAC 246-341-1050 General requirements for mental health and substance use disorder inpatient and residential services. (1) An agency providing substance use disorder services under WAC 246-341-1100 through 246-341-1114 or mental health services under WAC 246-341-1118 through 246-341-1158:

(a) Must be a facility licensed by the department as:

- (i) A hospital licensed under chapter 70.41 RCW;
 - (ii) A private psychiatric and alcoholism hospital licensed under chapter 71.12 RCW;
 - (iii) A private alcohol and substance use disorder hospital licensed under chapter 71.12 RCW; or
 - (iv) A residential treatment facility licensed under chapter 71.12 RCW;
- (b) If an agency is providing seclusion and restraint the agency must ensure that use of seclusion and restraint is documented and is used only to the extent necessary to ensure the safety of patients and others, and in accordance with WAC 246-320-226, 246-322-180, 246-324-200, or 246-337-110, as determined by the facility license type;
- (c) Must ensure access to necessary medical treatment, including emergency life-sustaining treatment and medication;
- (d) Must review the individual's crisis or recovery plan, if applicable and available;
- (e) Must determine the individual's risk of harm to self, others, or property;
- (f) Must coordinate with the individual's current treatment provider, if applicable, to assure continuity of care during admission and upon discharge;
- (g) Must develop and provide to the individual a discharge summary that must include:
- (i) A continuing care recommendation; and
 - (ii) Scheduled follow-up appointments, including the time and date of the appointment(s), when possible;
- (h) If providing services to adults and minors, an agency must:
- (i) Ensure that a minor who is at least age thirteen but not yet age eighteen is served with adults only if the minor's clinical record contains:
 - (A) Documentation that justifies such placement; and
 - (B) A professional judgment that placement in an inpatient facility that serves adults will not harm the minor;
 - (ii) Ensure the following for individuals who share a room:
 - (A) An individual fifteen years of age or younger must not room with an individual eighteen years of age or older;
 - (B) Anyone under thirteen years of age must be evaluated for clinical appropriateness before being placed in a room with an individual thirteen to sixteen years of age; and
 - (C) An individual sixteen or seventeen years of age must be evaluated for clinical appropriateness before being placed in a room with an individual eighteen years of age or older.
- (2) An agency providing residential or inpatient mental health or substance use disorder services to youth must follow these additional requirements:
- (a) Allow communication between the youth and the youth's parent or if applicable, a legal guardian, and facilitate the communication when clinically appropriate.
 - (b) Notify the parent or legal guardian within two hours of any significant decrease in the behavioral or physical health status of the youth and document all notification and attempts of notification in the clinical record.
 - (c) Discharge the youth to the care of the youth's parent or if applicable, legal guardian. For an unplanned discharge and when the parent or legal guardian is not available, the agency must contact the state child protective services.

(d) Ensure a staff member who demonstrates knowledge of adolescent development and substance use disorders is available at the agency or available by phone.

[]

NEW SECTION

WAC 246-341-1060 General requirements for mental health and substance use disorder inpatient and residential services providing services under chapter 71.05 or 71.34 RCW. This section applies to agencies providing secure withdrawal management, evaluation and treatment, involuntary crisis stabilization unit, and involuntary triage services.

(1) An agency providing services under chapter 71.05 or 71.34 RCW must:

(a) Follow the applicable statutory requirements in chapter 71.05 or 71.34 RCW;

(b) Ensure that services are provided in a secure environment.

"Secure" means having:

(i) All doors and windows leading to the outside locked at all times;

(ii) Visual monitoring, in a method appropriate to the individual;

(iii) A space to separate persons who are violent or may become violent from others when necessary to maintain safety of the individual and others;

(iv) The means to contact law enforcement immediately in the event of an elopement from the facility; and

(v) Adequate numbers of staff present at all times that are trained in facility security measures;

(c) Provide services, including admissions, seven days a week, twenty-four hours a day;

(d) Ensure that a mental health professional, substance use disorder professional, if appropriate, and physician, physician assistant, or psychiatric advanced registered nurse practitioner (ARNP) are available twenty-four hours a day, seven days a week for consultation and communication with the staff that provide direct care of individuals;

(e) Ensure at least daily contact between each involuntary individual and a mental health professional, substance use disorder professional, or person with a co-occurring disorder specialist enhancement as appropriate, for the purpose of evaluation as to:

(i) The need for further treatment;

(ii) Whether there is a change in involuntary status; or

(iii) Possible discharge;

(f) For an individual who has been delivered to the facility by a peace officer for evaluation the clinical record must contain:

(i) A statement of the circumstances under which the individual was brought to the unit;

(ii) The admission date and time;

(iii) Determination of whether to refer to a designated crisis responder (DCR) to initiate civil commitment proceedings;

(iv) If evaluated by a DCR, documentation that the evaluation was performed within the required time period, the results of the evaluation, and the disposition of the person.

(2) Upon discharge of the individual the agency shall provide notification to the DCR office responsible for the initial commitment, which may be a federally recognized Indian tribe or other Indian health care provider if the DCR is appointed by the health care authority, and the DCR office that serves the county in which the individual is expected to reside.

[]

NEW SECTION

WAC 246-341-1070 Inpatient and residential substance use disorder services—General. (1) An agency providing substance use disorder withdrawal management, secure withdrawal management, or residential substance use disorder services to an individual must:

(a) Inform individuals of their treatment options so they can make individualized choices for their treatment. This includes, as applicable, the initiation, continuation, or discontinuation of medications for substance use disorders.

(b) For individuals choosing to initiate or continue medications for their substance use disorder, make available on-site or facilitate off-site access to continue or initiate Federal Drug Administration (FDA)-approved medication for any substance use disorder, when clinically appropriate as determined by a medical practitioner.

(c) Provide continuity of care that allows individuals to receive timely and appropriate follow-up services upon discharge and, if applicable, allows the individual to continue medications with no missed doses.

(d) Document in the clinical record:

(i) The individual being informed of their treatment options including the use of medications for substance use disorder;

(ii) The continuation or initiation of FDA-approved medication for substance use disorder treatment that has been provided on-site or facilitated off-site, if applicable;

(iii) Referrals made to behavioral health providers including documentation that a discharge summary was provided to the receiving behavioral health provider as allowed under 42 C.F.R. Part 2; and

(iv) Contact or attempts to follow up with the individual post-discharge including the date of correspondence.

(2) An agency may not deny admission based solely on an individual taking FDA-approved medications, under the supervision of a medical provider, for their substance use disorder or require titration of dosages in order to be admitted or remain in the program.

[]

(~~(SECTION ELEVEN)~~) WITHDRAWAL MANAGEMENT, RESIDENTIAL SUBSTANCE USE DISORDER, AND MENTAL HEALTH INPATIENT SERVICES

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1100 Withdrawal management services (~~(—Adults)~~).

Substance use disorder withdrawal management services are provided to ~~((an))~~ a voluntary individual to assist in the process of withdrawal from psychoactive substances in a safe and effective manner ~~(, in accordance with ASAM criteria. For secure withdrawal management and stabilization services for individuals who have been involuntarily committed, see WAC 246-341-1104.~~

~~(1) A behavioral health agency certified for adult withdrawal management services may choose to also become certified to provide youth withdrawal management services (see WAC 246-341-1102).~~

~~(2) An agency providing withdrawal management services to an individual must:~~

~~(a) Be a facility licensed by the department under one of the following chapters:~~

~~(i) Hospital licensing regulations (chapter 246-320 WAC);~~

~~(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);~~

~~(iii) Private alcohol and substance use disorder hospitals (chapter 246-324 WAC); or~~

~~(iv) Residential treatment facility (chapter 246-337 WAC).~~

~~(b) Be licensed by the department as a behavioral health agency;~~

~~(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650; and~~

~~(d) Have policies and procedures to support and implement the specific requirements in this section).~~

~~((3)) (1) An agency must:~~

~~(a) ((Use ASAM criteria for admission, continued services, and discharge planning and decisions;)) Ensure the individual receives a substance use disorder screening before admission;~~

~~(b) Provide counseling to each individual that addresses the individual's:~~

~~(i) Substance use disorder and motivation; and~~

~~(ii) Continuing care needs and need for referral to other services.~~

~~(c) Maintain a list of resources and referral options that can be used by staff members to refer an individual to appropriate services; and~~

~~(d) Post any rules and responsibilities for individuals receiving treatment, including information on potential use of increased motivation interventions or sanctions, in a public place in the facility(~~;~~~~

~~(e) Provide tuberculosis screenings to individuals for the prevention and control of tuberculosis; and~~

~~(f) Provide HIV/AIDS information and include a brief risk intervention and referral as indicated).~~

~~((4)) (2) Ensure that each staff member providing withdrawal management services to an individual, with the exception of ((licensed staff members and chemical dependency)) substance use disorder professionals, substance use disorder professional trainees, physicians, physician assistants, advanced registered nurse practitioners, or person with a co-occurring disorder specialist enhancement, completes a minimum of forty hours of documented training before being assigned individual care duties. This personnel training must include the following topics:~~

~~(a) Substance use disorders;~~

~~(b) Infectious diseases, to include hepatitis and tuberculosis (TB); and~~

~~(c) Withdrawal screening, admission, and signs of trauma.~~

~~((5) In addition to the general clinical record content requirements in WAC 246-341-0640, an agency providing substance use disorder withdrawal management services must maintain an individual's clinical record that contains:~~

~~(a) Documentation of a substance use disorder screening before admission;~~

~~(b) A voluntary consent to treatment form, or any release forms, signed and dated by the individual, or the individual's parent or legal guardian, except as authorized by law for protective custody and involuntary treatment;~~

~~(c) Documentation that the individual received HIV/AIDS information and a brief risk intervention and referral as indicated; and~~

~~(d) Documentation that a discharge summary, including a continuing care recommendation and a description of the individual's physical condition, was completed within seven working days of discharge.)~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1100, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1104 Secure withdrawal management and stabilization services ((Adults)). Secure withdrawal management and stabilization services are provided to ~~((an))~~ a voluntary or involuntary individual to assist in the process of withdrawal from psychoactive substances in a safe and effective manner, or medically stabilize an individual after acute intoxication, in accordance with ~~((ASAM criteria and))~~ chapters 71.05 and 71.34 RCW.

~~(1) ((In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650,))~~ An agency must ~~((~~

~~(a))~~ meet the requirements for withdrawal management services in WAC 246-341-1100 ~~((; and~~

~~(b) Designate a physician or chemical dependency professional as the professional person as defined in RCW 71.05.020 in charge of clinical services at that facility)).~~

(2) An agency certified to provide secure withdrawal management and stabilization services must ~~((have the following))~~ develop and implement policies and procedures ~~((:~~

~~(a) Policies to ensure that services are provided in a secure environment. "Secure" means having:~~

~~(i) All doors and windows leading to the outside locked at all times;~~

~~(ii) Visual monitoring, either by line of sight or camera as appropriate to the individual;~~

~~(iii) Adequate space to segregate violent or potentially violent persons from others;~~

~~(iv) The means to contact law enforcement immediately in the event of an elopement from the facility; and~~

~~(v) Adequate numbers of staff present at all times that are trained in facility security measures.~~

~~(b) Policies to ensure compliance with WAC 246-337-110 regarding seclusion and restraint;~~

~~(c) Procedures for admitting individuals needing secure withdrawal management and stabilization services seven days a week, twenty-four hours a day;~~

~~(d) Procedures to ensure that once an individual has been admitted, if a medical condition develops that is beyond the facility's ability to safely manage, the individual will be transported to the nearest hospital for emergency medical treatment;~~

~~(e) Procedures to assure access to necessary medical treatment, including emergency life-sustaining treatment and medication;~~

~~(f) Procedures to assure at least daily contact between each involuntary individual and a chemical dependency professional or a trained professional person for the purpose of:~~

~~(i) Observation;~~

~~(ii) Evaluation;~~

~~(iii) Release from involuntary commitment to accept treatment on a voluntary basis; and~~

~~(iv) Discharge from the facility to accept voluntary treatment upon referral.~~

~~(g) Procedures to assure the protection of individual and family rights as described in WAC 246-341-1122, rights related to antipsychotic medication in WAC 246-341-1124, and rights as described in chapters 71.05 and 71.34 RCW;~~

~~(h) Procedures to inventory and safeguard the personal property of the individual being detained, including a process to limit inspection of the inventory list by responsible relatives or other persons designated by the detained individual;~~

~~(i) Procedures) to assure that a ((chemical dependency)) substance use disorder professional and licensed physician, physician assistant, or advanced registered nurse practitioner ((-ARNP-)) are available twenty-four hours a day, seven days a week for consultation and communication with the ((direct patient care)) staff ((twenty-four hours a day, seven days a week;~~

~~(j) Procedures to warn an identified person and law enforcement when an adult has made a threat against an identified victim as explained in RCW 70.02.050 and in compliance with 42 C.F.R. Part 2;~~

~~(k) Procedures to ensure that individuals detained for up to fourteen, ninety, or one hundred eighty additional days of treatment are evaluated by the professional staff of the facility in order to be prepared to testify that the individual's condition is caused by a substance use disorder and either results in likelihood of serious~~

~~harm or the individual being gravely disabled)) that provide direct care to individuals.~~

(3) An agency providing secure withdrawal management and stabilization services must document that each individual has received necessary screenings, assessments, examinations, or evaluations to determine the nature of the disorder and the treatment necessary, including:

(a) A telephone screening reviewed by a nurse, as defined in chapter 18.79 RCW, or medical practitioner prior to admission that includes current level of intoxication, available medical history, and known medical risks; and

(b) An examination and evaluation (~~(by a chemical dependency professional))~~ in accordance with RCW 71.05.210 within (~~(seventy-two))~~ twenty-four hours of admission to the facility(~~(; and~~

~~(c) An assessment for substance use disorder and additional mental health disorders or conditions, using the global appraisal of individual needs — Short screener (GAIN-SS) or its successor)).~~

(4) For individuals admitted to the secure withdrawal management and stabilization facility, the clinical record must contain:

(a) A statement of the circumstances under which the (~~(person))~~ individual was brought to the unit;

(b) The admission date and time;

(c) The date and time when the involuntary detention period ends;

(d) A determination of whether to refer to a (~~(designated crisis responder))~~ DCR to initiate civil commitment proceedings;

(e) If an individual is admitted voluntarily and appears to meet the criteria for initial detention, documentation that an evaluation was performed by a (~~(designated crisis responder))~~ DCR within the time period required in RCW 71.05.050, the results of the evaluation, and the disposition; and

(f) (~~(Review of the client's current crisis plan, if applicable and available; and~~

~~(g))~~ Review of the admission diagnosis and what information the determination was based upon.

(5) An agency certified to provide secure withdrawal management and stabilization services must ensure the treatment plan includes all of the following:

(a) A protocol for safe and effective withdrawal management, including medications as appropriate;

(b) Discharge assistance provided by (~~(chemical dependency))~~ substance use disorder professionals or persons with a co-occurring disorder specialist enhancement, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual.

~~((6) An agency certified to provide secure withdrawal management and stabilization services must ensure that each staff member providing withdrawal management services to an individual, with the exception of licensed staff members and CDPs, completes a minimum of forty hours of documented training before being assigned individual care duties. This personnel training must include the following topics:~~

~~(a) Substance use disorders;~~

~~(b) Infectious diseases, to include hepatitis and tuberculosis (TB); and~~

~~(c) Withdrawal screening, admission, and signs of trauma.))~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1104, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1108 Residential substance use disorder treatment services—General. Residential substance use disorder treatment services provide substance use disorder treatment for an individual in a facility with twenty-four hours a day supervision.

- (1) Residential treatment services include:
- (a) Intensive inpatient services (~~(, ASAM level 3.5)~~);
 - (b) Low intensity (recovery house) residential treatment services (~~(, ASAM level 3.1)~~); and
 - (c) Long-term residential treatment services (~~(, ASAM level 3.1;~~ and
 - ~~(d) Youth residential services, ASAM levels 3.1, 3.5, and 3.7).~~
- (2) An agency certified to provide residential treatment services must:
- (a) (~~Be a facility licensed by the department and meet the criteria under one of the following DOH chapters:~~
 - ~~(i) Hospital licensing regulations (chapter 246-320 WAC);~~
 - ~~(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);~~
 - ~~(iii) Private alcohol and substance use disorder hospitals (chapter 246-324 WAC); or~~
 - ~~(iv) Residential treatment facility (chapter 246-337 WAC).~~
 - ~~(b) Be licensed by the department as a behavioral health agency;~~
 - ~~(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650;~~
 - ~~(d) Have policies and procedures to support and implement the:~~
 - ~~(i) General requirements in WAC 246-341-0420; and~~
 - ~~(ii) Specific applicable requirements in WAC 246-341-1110 through 246-341-1116.~~
 - ~~(e) Use ASAM criteria for admission, continued services, and discharge planning and decisions;~~
 - ~~(f)) Provide education to each individual admitted to the treatment facility on:~~
 - (i) Substance use disorders;
 - (ii) Relapse prevention;
 - (iii) Bloodborne pathogens; ((and))
 - (iv) Tuberculosis (TB) (~~(-)~~);
 - ~~((g) Provide education or information to each individual admitted on:~~
 - ~~(i)) (v) Emotional, physical, and sexual abuse; and~~
 - ~~((ii)) (vi) Nicotine use disorder (~~;~~ and~~
 - ~~(iii) The impact of substance use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy).~~
 - ~~((h)) (b) Maintain a list or source of resources, including self-help groups, and referral options that can be used by staff to refer an individual to appropriate services; and~~
 - ~~((i) Screen for the prevention and control of tuberculosis;~~
 - ~~(j) Limit the size of group counseling sessions to no more than sixteen individuals;~~
 - ~~(k) Have)) (c) Develop and implement written procedures for:~~
 - (i) Urinalysis and drug testing, including laboratory testing;

and

(ii) How agency staff members respond to medical and psychiatric emergencies.

~~((1) The individual service plan is initiated with at least one goal identified by the individual during the initial assessment or at the first service session following the assessment.))~~

(3) An agency that provides services to a pregnant woman must:

(a) ~~((Have))~~ Develop and implement a written procedure to address specific issues regarding the woman's pregnancy and prenatal care needs; ~~((and))~~

(b) Provide referral information to applicable resources; and

(c) Provide education on the impact of substance use during pregnancy, risks to the developing fetus, and the importance of informing medical practitioners of chemical use during pregnancy.

(4) An agency that provides an assessment to an individual under RCW 46.61.5056 must also meet the requirements for driving under the influence (DUI) assessment providers in WAC 246-341-0820.

(5) An agency that provides substance use disorder residential services to youth must:

(a) Ensure staff members are trained in safe and therapeutic techniques for dealing with a youth's behavior and emotional crisis, including:

(i) Verbal deescalation;

(ii) Crisis intervention;

(iii) Anger management;

(vi) Suicide assessment and intervention;

(v) Conflict management and problem solving skills;

(vii) Management of assaultive behavior;

(viii) Proper use of therapeutic physical intervention techniques; and

(ix) Emergency procedures.

(b) Provide group meetings to promote personal growth.

(c) Provide leisure, and other therapy or related activities.

(d) Provide seven or more hours of structured recreation each week, that is led or supervised by staff members.

(e) Provide each youth one or more hours per day, five days each week, of supervised academic tutoring or instruction by a certified teacher when the youth is unable to attend school for an estimated period of four weeks or more. The agency must:

(i) Document the individual's most recent academic placement and achievement level; and

(ii) Obtain school work from the individual's school, or when applicable, provide school work and assignments consistent with the individual's academic level and functioning.

(f) Conduct random and regular room checks when an individual is in their room, and more often when clinically indicated.

(g) Ensure each individual's clinical record:

(i) Contains any consent or release forms signed by the youth and their parent or legal guardian;

(ii) Contains the parent's or other referring person's agreement to participate in the treatment process, as appropriate and if possible; and

(iii) Documents any problems identified in specific youth assessment, including any referrals to school and community support services, on the individual service plan.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1108, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1110 Residential substance use disorder treatment services—Intensive inpatient services. (1) Intensive inpatient services are clinically managed, high-intensity substance use disorder residential treatment services that provide a concentrated program of individual and group counseling, education, and activities for an individual who ~~((has completed))~~ is not in active withdrawal ~~((management))~~ and the individual's family to address overall functioning and to demonstrate aspects of recovery lifestyle.

(2) ~~((In addition to meeting the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 and the residential treatment services requirements in WAC 246-341-1108,))~~ An agency certified to provide intensive inpatient services must:

(a) Complete the individual service plan within five days of admission;

(b) Conduct and document at least weekly, one face-to-face individual substance use disorder counseling session with the individual; and

(c) ~~((Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it;))~~

~~((d))~~ Document at least weekly, an individual service plan review which determines continued stay needs and progress towards goals ~~((and~~

~~((e) Provide treatment services in line with ASAM 3.5 components appropriate to youth or adults))~~.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1110, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1112 Residential substance use disorder treatment services—Low intensity (recovery house) residential treatment services. (1) Low intensity (recovery house) services are clinically managed, low-intensity substance use disorder residential treatment services that provide ~~((a program of))~~ individualized care and treatment with social, vocational, and recreational activities to aid in individual adjustment to ~~((abstinence))~~ recovery, relapse prevention, recovery skills development, and to aid in job training, employment, or participating in other types of community services.

(2) ~~((In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 and the residential treatment services requirements in WAC 246-341-1108,))~~ An agency certified to provide low intensity (recovery house) services must:

(a) Provide no less than five hours per week of treatment services ~~((in line with ASAM level 3.1));~~ and

(b) ~~((Progress notes should include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it; and~~

~~(e))~~ Conduct and document an individual service plan review at least monthly.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1112, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1114 Residential substance use disorder treatment services—Long-term treatment services. (1) Long-term treatment services are clinically managed, higher-intensity substance use disorder residential treatment services that provide ~~((a program))~~ individualized care and treatment for an individual needing consistent structure over a longer period of time to develop and maintain ~~((abstinence))~~ recovery, develop recovery skills, and to improve overall health.

~~(2) ((In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 and the residential treatment services requirements in WAC 246-341-1108))~~ An agency certified to provide long-term treatment services must:

~~(a) ((Provide an individual a minimum of two hours each week of individual or group counseling;~~

~~(b) Provide no less than five hours per week of treatment services in line with ASAM 3.1 components;~~

~~(c) Progress notes should include the date, time, duration, participant names, and a brief summary of the session and the names of the staff member who provided it;~~

~~(d))~~ Provide an individual, during the course of services, with:

(i) Education on social and coping skills, relapse prevention, and recovery skills development;

(ii) Social and recreational activities;

(iii) Assistance in seeking employment, when appropriate; and

(iv) Assistance with reentry living skills to include seeking and obtaining safe housing.

~~((e))~~ (b) Conduct and document an individual service plan review at least monthly.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1114, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 20-07-091, filed 3/17/20, effective 5/1/20)

WAC 246-341-1118 Mental health inpatient services—General. (1) Mental health inpatient services include the following types of behavioral health services certified by the department:

(a) Evaluation and treatment services;

(b) Intensive behavioral health treatment services;

- (c) Child long-term inpatient program (CLIP);
 - (d) Crisis stabilization units;
 - (e) Triage services; and
 - (f) Competency evaluation and ~~((treatment))~~ restoration services.
- (2) ~~An ((agency providing inpatient services to an individual~~

~~must:~~

- ~~(a) Be a facility licensed by the department under one of the following chapters:~~
 - ~~(i) Hospital licensing regulations (chapter 246-320 WAC);~~
 - ~~(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);~~
 - ~~(iii) Private alcohol and substance use disorder hospitals (chapter 246-324 WAC); or~~
 - ~~(iv) Residential treatment facility (chapter 246-337 WAC).~~
- ~~(b) Be licensed by the department as a behavioral health agency;~~
- ~~(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650;~~
- ~~(d) Meet the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132;~~
- ~~(e) Have policies and procedures to support and implement the specific applicable program-specific requirements; and~~
- ~~(f) If applicable, have policies to ensure compliance with WAC 246-337-110 regarding seclusion and restraint.~~

~~(3) The behavioral health)) agency providing mental health inpatient services must ~~((document the development of))~~ develop and implement an individualized annual training plan for agency staff members, to include at least:~~

- ~~(a) Least restrictive alternative options available in the community and how to access them;~~
- ~~(b) Methods of individual care; and~~
- ~~(c) Deescalation training and management of assaultive and self-destructive behaviors, including proper and safe use of seclusion and restraint procedures ((; and~~
- ~~(d) The requirements of chapter 71.05 and 71.34 RCW, this chapter, and protocols developed by the department)).~~

~~((4))~~ (3) If contract staff are providing direct services, the facility must ensure compliance with the training requirements outlined in subsection ~~((3))~~ (2) of this section.

~~((5) This chapter does not apply to state psychiatric hospitals as defined in chapter 72.23 RCW or facilities owned or operated by the department of veterans affairs or other agencies of the United States government.)~~ (4) A behavioral health agency providing mental health inpatient services must:

(a) Document that each individual has received evaluations to determine the nature of the disorder and the treatment necessary, including:

(i) A health assessment of the individual's physical condition to determine if the individual needs to be transferred to an appropriate hospital for treatment;

(ii) Examination and medical evaluation within twenty-four hours of admission by a licensed physician, advanced registered nurse practitioner, or physician assistant;

(iii) Consideration of less restrictive alternative treatment at the time of admission; and

(iv) The admission diagnosis and what information the determination was based upon.

(b) Ensure the rights of individuals to make mental health advance directives, and facility protocols for responding to individual and agent requests consistent with RCW 71.32.150.

(c) Ensure examination and evaluation of a minor by a children's mental health specialist occurs within twenty-four hours of admission.

[Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-1118, filed 3/17/20, effective 5/1/20. Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1118, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 20-07-091, filed 3/17/20, effective 5/1/20)

WAC 246-341-1134 Mental health inpatient services—Evaluation and treatment services. (1) Evaluation and treatment services are provided for individuals who are ((detained)) held for one hundred twenty-hour detention or on fourteen, ninety, or one hundred eighty-day civil commitment orders according to chapter 71.05 RCW. An agency providing evaluation and treatment services may choose to serve individuals who are held for one hundred twenty-hour detention, or on short-term commitment orders (fourteen-day), long-term commitment orders (ninety-day and one hundred eighty-day), or ((both)) all three. Agencies providing evaluation and treatment services may also provide services for individuals who are not detained or committed.

~~((1) In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650, and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132 an agency providing evaluation and treatment services must ensure:~~

~~(a) Designation of a physician or other mental health professional as the professional person as defined in RCW 71.05.020 in charge of clinical services at that facility; and~~

~~(b) A policy management structure that establishes:~~

~~(i) Procedures to assure appropriate and safe transportation for persons who are not approved for admission to his or her residence or other appropriate place;~~

~~(ii) Procedures to detain arrested persons who are not approved for admission for up to eight hours so that reasonable attempts can be made to notify law enforcement to return to the facility and take the person back into custody;~~

~~(iii) Procedures to assure the rights of individuals to make mental health advance directives, and facility protocols for responding to individual and agent requests consistent with RCW 71.32.150;~~

~~(iv) Procedures to ensure that if the facility releases the individual to the community, the facility informs the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and has provided contact information to the facility;~~

~~(v) Procedures to document that each individual has received evaluations to determine the nature of the disorder and the treatment necessary, including a psychosocial evaluation by a mental health professional; and~~

~~(vi) For individuals who are being evaluated as dangerous mentally ill offenders under RCW 72.09.370(7), the professional person in charge of the evaluation and treatment facility must consider filing a petition for a ninety day less restrictive alternative in lieu of a petition for a fourteen-day commitment.)~~

(2) ~~((A facility))~~ An agency certified to provide evaluation and treatment services for youth may provide treatment for a child on a one hundred eighty-day inpatient involuntary commitment order only until the child is discharged from the order to the community, or until a bed is available for that child in a child long-term inpatient treatment facility (CLIP).

[Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-1134, filed 3/17/20, effective 5/1/20. Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1134, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 20-07-091, filed 3/17/20, effective 5/1/20)

WAC 246-341-1137 Behavioral health inpatient services—Intensive behavioral health treatment services. (1) Intensive behavioral health treatment services are intended to assist individuals in transitioning to lower levels of care, including individuals on a less restrictive alternative order. These services are provided for individuals with behavioral health conditions whose impairment or behaviors do not meet or no longer meet criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based settings due to one or more of the following:

(a) Self-endangering behaviors that are frequent or difficult to manage;

(b) Intrusive behaviors that put residents or staff at risk;

(c) Complex medication needs, which include psychotropic medications;

(d) A history or likelihood of unsuccessful placements in other community facilities or settings such as:

(i) Assisted living facilities licensed under chapters 18.20 RCW and 388-78A WAC;

(ii) Adult family homes licensed under chapters 70.128 RCW and 388-76 WAC;

(iii) Permanent supportive housing provided in accordance with chapter 388-106 WAC;

(iv) Supported living certified under chapter 388-101 WAC; or

(v) Residential treatment facilities licensed under chapters 71.12 RCW and 246-337 WAC providing a lower level of services.

(e) A history of frequent or protracted mental health hospitalizations; or

(f) A history of offenses against a person or felony offenses that cause physical damage to property.

(2) ~~((In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650, and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132,))~~ An agen-

cy providing intensive behavioral health treatment services must ensure services are provided:

(a) In a residential treatment facility licensed under chapters 71.12 RCW and 246-337 WAC;

(b) By a multidisciplinary team including clinicians, community supports, and those responsible for discharge planning; and

(c) With twenty-four hour observation of individuals by at least two staff who are awake and on duty.

(3) The agency may:

(a) Only admit individuals at least eighteen years of age whose primary care need is treatment for a mental health disorder that does not include a diagnosis of dementia or an organic brain disorder, but may include individuals who have a secondary diagnosis of intellectual or developmental disabilities;

(b) Only admit individuals who are capable of performing activities of daily living without direct assistance from agency staff; and

(c) Not admit individuals with a diagnosis of dementia or an organic brain disorder who can more appropriately be served in an enhanced services facility licensed under chapters 70.97 RCW and 388-107 WAC or other long-term care facility as defined in RCW 70.129.010.

(4) The agency must follow WAC 246-341-0805 regarding less restrictive alternative services.

(5) In addition to the applicable training requirements in this chapter, the agency must train all direct care staff on how to provide services and appropriate care to individuals with intellectual or developmental disabilities as described in Title 71A RCW, including:

(a) An overview of intellectual and developmental disabilities including how to differentiate intellectual or developmental disabilities from mental illness;

(b) Effective communication including methods of verbal and non-verbal communication when supporting individuals with intellectual or developmental disabilities; and

(c) How to identify behaviors in individuals that constitutes "normal stress" and behaviors that constitute a behavioral health crisis.

(6) The agency must develop and implement policies and procedures that explain how the agency will have sufficient numbers of appropriately trained, qualified, or credentialed staff available to safely provide all of the following services in accordance with an individual's care plan and needs:

(a) Planned activities for psychosocial rehabilitation services, including:

(i) Skills training in activities of daily living; skills training may include teaching and prompting or cueing individuals to perform activities, but does not include directly assisting individuals in performing the activities;

(ii) Social interaction;

(iii) Behavioral management, including self-management and understanding of recovery;

(iv) Impulse control;

(v) Training and assistance for self-management of medications;

and

(vi) Community integration skills.

(b) Service coordination provided by a mental health professional;

(c) Psychiatric services, including:

- (i) Psychiatric nursing, on-site, twenty-four hours per day, seven days per week;
 - (ii) Timely access to a psychiatrist, psychiatric advanced registered nurse practitioner, or physician's assistant who is licensed under Title 18 RCW operating within their scope of practice who by law can prescribe drugs in Washington state; and
 - (iii) A mental health professional on site at least eight hours per day and accessible twenty-four hours per day, seven days per week.
- (d) Access to intellectual and developmental disability services provided by a disability mental health specialist as described in WAC 182-538D-0200 or a person credentialed to provide applied behavioral analysis; and
- (e) Peer support services provided by certified peer counselors.
- (7) The agency must provide access to or referral to substance use disorder services, and other specialized services, as needed.
- (8) The agency must provide a system or systems within the building that give staff awareness of the movements of individuals within the facility. If a door control system is used, it shall not prevent a resident from leaving the licensed space on their own accord, except temporary delays as allowed by (a) of this subsection. Such systems include:
- (a) Limited egress systems consistent with state building code, such as delayed egress;
 - (b) Appropriate staffing levels to address safety and security; and
 - (c) Policies and procedures that:
 - (i) Are consistent with the assessment of the individual's care needs and plan; and
 - (ii) Do not limit the rights of a voluntary individual.
- (9) The agency must have a memorandum of understanding with the local crisis system, including the closest agency providing evaluation and treatment services and designated crisis responders to ensure timely response to and assessment of individuals who need a higher level of care.
- (10) The agency must develop and implement policies and procedures regarding discharge and transfer that:
- (a) Allows each individual to stay in the facility and not discharge the individual to another facility type or other level of care unless another placement has been secured, and:
 - (i) The individual completed their care objectives and no longer needs this level of care;
 - (ii) The individual has medical care needs that the agency cannot provide or needs direct assistance with activities of daily living;
 - (iii) The individual needs a higher level of behavioral health care, such as evaluation and treatment services, due to a change in behavioral health status or because the individual's conditional release or less restrictive alternative order is revoked; or
 - (iv) The individual is convicted of any gross misdemeanor or felony while being a resident in the facility where the conviction was based on conduct that caused significant harm to another individual residing in the agency or staff member and there is a likelihood the (~~person~~) individual continues to endanger the safety and health of residents or staff. For the purposes of this subsection, conviction includes all instances in which plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence have been deferred or suspended.

(b) Allows individuals who are discharged in accordance with (a)(ii) or (iii) of this subsection to be accepted back into the facility if and when it is medically, clinically, legally, and contractually appropriate;

(c) Allows each individual to stay in the facility and not transfer to another agency providing intensive behavioral health treatment services unless the individual requests to receive services in a different agency certified to provide intensive behavioral health treatment services;

(d) Follows all transfer and discharge documentation requirements in WAC 246-341-0640(~~(15)~~) and also documents the specific time and date of discharge or transfer. Additionally, the agency must give the following information to the individual, the individual's representative, and family or guardian, as appropriate, before discharge or transfer:

(i) The name, address, and telephone number of the applicable ombuds;

(ii) For individuals with disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals; and

(iii) The mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals.

(e) Includes transportation coordination that informs all parties involved in the coordination of care.

(11) The agency must protect and promote the rights of each individual and assist the individual to exercise their rights as an individual, as a citizen or resident of the United States and the state of Washington. To do this, the agency must:

(a) Train staff on resident rights and how to assist individuals in exercising their rights;

(b) Protect each individual's right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the agency;

(c) Post names, addresses, and telephone numbers of the state (~~(survey)~~) review and certification agency, the state licensure office, the relevant ombuds programs, and the protection and advocacy systems;

(d) Provide reasonable access to an individual by the individual's representative or an entity or individual that provides health, social, legal, or other services to the individual, subject to the individual's right to deny or withdraw consent at any time;

(e) Allow representatives of appropriate ombuds to examine a resident's clinical records with the permission of the individual or the individual's legal representative, and consistent with state and federal law;

(f) Not require or request individuals to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of individual's rights;

(g) Fully disclose to individuals the agency's policy on accepting medicaid as a payment source; and

(h) Inform the individual both orally and in writing in a language that the individual understands of their applicable rights in accordance with this chapter. The notification must be made upon admission and the agency must document the information was provided.

(12) In addition to all other applicable rights, an individual receiving certified intensive behavioral health treatment services has the right to:

- (a) Be free of interference, coercion, discrimination, and reprisal from the agency in exercising their rights;
- (b) Choose a representative who may exercise the individual's rights to the extent provided by law;
- (c) Manage their own financial affairs;
- (d) Personal privacy and confidentiality, including the following considerations:
 - (i) Personal privacy applies to accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups.
 - (ii) The individual may approve or refuse the release of personal and clinical records to an individual outside the agency unless otherwise provided by law.
 - (iii) Privacy in communications, including the right to:
 - (A) Send and promptly receive mail that is unopened;
 - (B) Have access to stationery, postage, and writing implements;
- and
 - (C) Have reasonable access to the use of a telephone where calls can be made without being overheard.
- (e) Prompt resolution of voiced grievances including those with respect to treatment that has been furnished as well as that which has not been furnished and the behavior of other residents;
- (f) File a (~~complaint~~) report with the department (~~of health~~) for any reason;
- (g) Examine the results of the most recent (~~survey~~) review or inspection of the agency conducted by federal or state (~~surveyors~~) reviewers or inspectors and plans of correction in effect with respect to the agency;
- (h) Receive information from client advocates, and be afforded the opportunity to contact these advocates;
- (i) Access the following without interference:
 - (i) Any representative of the state;
 - (ii) The individual's medical provider;
 - (iii) Ombuds;
 - (iv) The agencies responsible for the protection and advocacy system for individuals with disabilities, developmental disabilities, and individuals with mental illness created under federal law; and
- (v) Subject to reasonable restrictions to protect the rights of others and to the individual's right to deny or withdraw consent at any time, immediate family or other relatives of the individual and others who are visiting with the consent of the resident.
- (j) Retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents;
- (k) Secure storage, upon request, for small items of personal property;
- (l) Be notified regarding transfer or discharge;
- (m) Be free from restraint and involuntary seclusion;
- (n) Be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion;
- (o) Choose activities, schedules, and health care consistent with the individual's interests, assessments, and plans of care;
- (p) Interact with members of the community both inside and outside the agency;
- (q) Make choices about aspects of their life in the agency that are significant to the individual;

(r) Unless adjudged incompetent or otherwise found to be legally incapacitated, participate in planning care and treatment or changes in care and treatment;

(s) Unless adjudged incompetent or otherwise found to be legally incapacitated, to direct their own service plan and changes in the service plan, and to refuse any particular service so long as such refusal is documented in the record of the individual;

(t) Participate in social, religious, and community activities that do not interfere with the rights of other individuals in the agency;

(u) Reside and receive services in the agency with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other individuals would be endangered; and

(v) Organize and participate in participant groups.

(13) The individual and their representative have the right to:

(a) Access all records pertaining to the individual including clinical records according to requirements in WAC 246-341-0650; and

(b) Be notified, along with interested family members, when there is:

(i) An accident involving the individual which requires or has the potential for requiring medical intervention;

(ii) A significant change in the individual's physical, mental, or psychosocial status; and

(iii) A change in room or roommate assignment.

[Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-1137, filed 3/17/20, effective 5/1/20.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1138 Mental health inpatient services—Child long-term inpatient program (CLIP). In addition to meeting the ((agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650, the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1322, and the)) evaluation and treatment service requirements of WAC 246-341-1134, child long-term inpatient treatment facilities must develop a written plan for assuring that services provided are appropriate to the developmental needs of children, including all of the following:

(1) If there is not a child psychiatrist on the staff, there must be a child psychiatrist available for consultation.

(2) There must be a psychologist with documented evidence of skill and experience in working with children available either on the clinical staff or by consultation, responsible for planning and reviewing psychological services and for developing a written set of guidelines for psychological services.

(3) There must be a registered nurse, with training and experience in working with psychiatrically impaired children, on staff as a full-time or part-time employee who must be responsible for all nursing functions.

(4) There must be a social worker with experience in working with children on staff as a full-time or part-time employee who must be responsible for social work functions and the integration of these functions into the individual treatment plan.

(5) There must be an educational/vocational assessment of each resident with appropriate educational/vocational programs developed and implemented or assured on the basis of that assessment.

(6) There must be an occupational therapist licensed under chapter 18.59 RCW available who has experience in working with psychiatrically impaired children responsible for occupational therapy functions and the integration of these functions into treatment.

(7) There must be a registered recreational therapist under chapter 18.230 RCW available who has had experience in working with psychiatrically impaired children responsible for the recreational therapy functions and the integration of these functions into treatment.

(8) Disciplinary policies and practices must be stated in writing and all of the following must be true:

(a) Discipline must be fair, reasonable, consistent and related to the behavior of the resident. Discipline, when needed, must be consistent with the individual treatment plan.

(b) Abusive, cruel, hazardous, frightening or humiliating disciplinary practices must not be used. Seclusion and restraints must not be used as punitive measures. Corporal punishment must not be used.

(c) Disciplinary measures must be documented in the ~~((medical))~~ clinical record.

(9) Residents must be protected from assault, abuse and neglect. Suspected or alleged incidents of nonaccidental injury, sexual abuse, assault, cruelty or neglect to a child must be reported to a law enforcement agency or to the department of children, youth, and families and comply with chapter 26.44 RCW.

(10) Orientation material must be made available to any facility personnel, clinical staff or consultants informing practitioners of their reporting responsibilities and requirements. Appropriate local police and department phone numbers must be available to personnel and staff.

(11) When suspected or alleged abuse is reported, the ~~((medical))~~ clinical record must reflect the fact that an oral or written report has been made to the child protective services of ~~((DSSH))~~ the department of children, youth, and families or to a law enforcement agency within the timelines identified in chapter 26.44 RCW. This note must include the date and time that the report was made, the agency to which it was made and the signature of the person making the report. Contents of the report need not be included in the medical record.

(12) Agencies that provide child long-term inpatient treatment services are exempt from the requirement in WAC 246-341-1060 to admit individuals needing treatment seven days a week, twenty-four hours a day.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1138, filed 4/16/19, effective 5/17/19.]

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1140 Mental health inpatient services—Crisis stabilization unit(~~—Agency facility and administrative standards~~) and triage. ((In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650 and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132,)) An agency certified to provide crisis stabilization unit or triage services must meet all of the following criteria:

(1) A triage facility must be licensed ((by the department)) as a residential treatment facility under chapter 71.12 RCW.

(2) If a crisis stabilization unit or triage facility is part of a jail, the unit must be located in an area of the building that is physically separate from the general population. "Physically separate" means:

(a) Out of sight and sound of the general population at all times;

(b) Located in an area with no foot traffic between other areas of the building, except in the case of emergency evacuation; and

(c) Has a secured entrance and exit between the unit and the rest of the facility.

(3) ((The professional person in charge of administration of the unit must be a mental health professional.

~~(4) Have a policy management structure that establishes:~~

~~(a) Procedures to ensure that for persons who have been brought to the unit involuntarily by police, the stay is limited to twelve hours unless the individual has signed voluntarily into treatment;~~

~~(b) Procedures to ensure that within twelve hours of the time of arrival to the crisis stabilization unit, individuals who have been detained by a designated crisis responder under chapter 71.05 or 70.96B RCW are transferred to a certified evaluation and treatment facility;~~

~~(c) Procedures to assure appropriate and safe transportation of persons who are not approved for admission or detained for transfer to an evaluation and treatment facility, and if not in police custody, to their respective residence or other appropriate place;~~

~~(d) Procedures to detain arrested persons who are not approved for admission for up to eight hours so that reasonable attempts can be made to notify law enforcement to return to the facility and take the person back into custody;~~

~~(e) Procedures to ensure that a mental health professional is on-site twenty-four hours a day, seven days a week;~~

~~(f) Procedures to ensure that a licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner (ARNP) is available for consultation to direct care staff twenty-four hours a day, seven days a week;~~

~~(g) Procedures to ensure that the following requirements are met when an individual is brought to the facility by a peace officer under RCW 71.05.153:~~

~~(i) Within twelve hours of arrival, a designated crisis responder (DCR) must determine if the individual meets detention criteria under chapter 71.05 RCW; and~~

~~(ii) If the facility releases the individual to the community, the facility must inform the peace officer of the release within a~~

~~reasonable period of time after the release if the peace officer has specifically requested notification and has provided contact information to the facility.~~

~~(h) Procedures to ensure the rights of persons to make mental health advance directives;~~

~~(i) Procedures to establish unit protocols for responding to the provisions of the advanced directives consistent with RCW 71.32.150; and~~

~~(j) Procedures to assure that restraint and seclusion are utilized only to the extent necessary to ensure the safety of patients and others, and in accordance with WAC 246-337-110, 246-322-180, and 246-320-745(6).~~

~~(5) Prominently post within the crisis stabilization unit the rights stated in WAC 246-341-1122, Mental health inpatient services—Rights of individuals receiving inpatient services, and provide them in writing to the individual in a language or format that the individual can understand.) Ensure that a mental health professional is on-site at least eight hours per day, seven days a week, and accessible twenty-four hours per day, seven days per week.~~

~~(4) Ensure a mental health professional assesses an individual within three hours of the individual's arrival at the facility.~~

~~(5) For persons admitted to the crisis stabilization unit or triage facility on a voluntary basis, the clinical record must meet the clinical record requirements in WAC 246-341-0640.~~

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1140, filed 4/16/19, effective 5/17/19.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-341-0305	Agency licensure and certification—Application.
WAC 246-341-0315	Agency licensure and certification—Renewals.
WAC 246-341-0325	Agency licensure and certification—Approvals and provisional approvals.
WAC 246-341-0330	Agency licensure and certification—Effective dates.
WAC 246-341-0340	Agency licensure and certification—Adding a branch site.
WAC 246-341-0345	Agency licensure and certification—Adding a new service.
WAC 246-341-0350	Agency licensure and certification—Change in ownership.
WAC 246-341-0355	Agency licensure and certification—Change in location.
WAC 246-341-0360	Agency licensure and certification—Facility remodel.

- WAC 246-341-0430 Agency administration—Treatment facility requirements.
- WAC 246-341-0500 Personnel—Agency policies and procedures.
- WAC 246-341-0610 Clinical—Assessment.
- WAC 246-341-0620 Clinical—Individual service plan.
- WAC 246-341-0716 Outpatient services—Mental health outpatient services provided in a residential treatment facility (RTF).
- WAC 246-341-0726 Outpatient services—Recovery support—Wraparound facilitation mental health services.
- WAC 246-341-0732 Outpatient services—Consumer-run recovery support—Clubhouses—Management and operational requirements.
- WAC 246-341-0734 Outpatient services—Consumer-run recovery support—Clubhouses—Certification process.
- WAC 246-341-0736 Outpatient services—Consumer-run recovery support—Clubhouses—Employment-related services.
- WAC 246-341-0752 Outpatient services—Substance use disorder information and assistance—Screening and brief intervention.
- WAC 246-341-0920 Crisis mental health services—Peer support services.
- WAC 246-341-1102 Withdrawal management services—Youth.
- WAC 246-341-1106 Secure withdrawal management and stabilization services—Youth.
- WAC 246-341-1116 Residential substance use disorder treatment services—Youth residential services.
- WAC 246-341-1120 Mental health inpatient services—Posting of individual rights for minors.
- WAC 246-341-1122 Mental health inpatient services—Rights of individuals receiving inpatient services.
- WAC 246-341-1126 Mental health inpatient services—Policies and procedures—Adult.
- WAC 246-341-1128 Mental health inpatient services—Policies and procedures—Minors.
- WAC 246-341-1130 Mental health inpatient services—Treatment of a minor without consent of parent.
- WAC 246-341-1132 Mental health inpatient services—Treatment of a minor without consent of minor.

- WAC 246-341-1142 Mental health inpatient services—Crisis stabilization unit—Admission, assessment, and records.
- WAC 246-341-1144 Mental health inpatient services—Triage—Agency facility and administrative requirements.
- WAC 246-341-1146 Mental health inpatient services—Triage—Admission, assessment, and records.
- WAC 246-341-1148 Mental health inpatient services—Triage—Stabilization plan.
- WAC 246-341-1150 Mental health inpatient services—Triage—Discharge.
- WAC 246-341-1152 Mental health inpatient services—Triage—Involuntary.

WSR 21-04-133
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 2, 2021, 12:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-14-114.

Title of Rule and Other Identifying Information: Chapter 296-155 WAC, Safety standards for construction work, Part S, Demolition.

Hearing Location(s): On March 9, 2021, at 9:00 a.m. PST (United States and Canada). Zoom hearing, join Zoom meeting at <https://us02web.zoom.us/j/96415633015>, Meeting ID 964 1563 3015, Passcode ^.G7vEar, join by phone +1 253 215 8782 US (Tacoma), Meeting ID 964 1563 3015, Passcode 58967172. The hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: April 20, 2021.

Submit Written Comments to: Cathy Coates, P.O. Box 44620, Olympia, WA 98504-4620, email Cathy.Coates@lni.wa.gov, fax 360-902-5619, by March 19, 2021.

Assistance for Persons with Disabilities: Contact Cathy Coates, phone 360-902-5432, fax 360-902-5619, email Cathy.Coates@lni.wa.gov, by February 16, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The division of occupational safety and health (DOSH) is updating the requirements in chapter 296-155 WAC, Safety standards for construction work, Part S, Demolition. The rule making was initiated to remove confusing and unnecessary language, add clarification where necessary throughout the rule to improve safety, and make other updates and housekeeping changes throughout this chapter where needed.

Following an investigation of demolition violations related to the Highway 410 overpass collapse and a subsequent review of the citation history for the demolition requirements under chapter 296-155 WAC, Part S, the department of labor and industries (L&I) determined that rule changes were needed to ensure that demolition plans were developed and implemented.

While the current rule requires a demolition survey with a demolition plan be conducted prior to starting demolition, neither DOSH's rule nor the Occupational Safety and Health Administration (OSHA) explicitly require the employer to follow the demolition plan it developed or the safety recommendations contained in the survey. Based on a review of past inspections, including Highway 410 overpass collapse inspection, it was determined that without a clear requirement to require a demolition plan that is based on the engineering survey information, more incidents exposing workers and the public are likely to occur.

If demolition is not conducted according to a plan consistent with the engineering survey, hazards such as unplanned collapses and hazards from flying or dropping debris, can injure both workers and the public. The proposed rule requires a demolition plan be developed specific to a particular demolition project and in consideration of the engineering survey for the specific project and that the plan be implemented.

DOSH is also making changes to remove confusing and unnecessary language, as well as add clarification where necessary throughout the

rule to improve employee and public safety. Other updates and house-keeping changes are being made throughout this chapter.

New Section:

WAC 296-155-774 Definitions and applicability. Specifically, the proposed rule will:

- Include a scope of the rule.
- Add the following new definitions to this subpart: Competent person and demolition.
- Add the following references related to the use of equipment: Ladder use requirements found in chapter 296-876 WAC; scaffolds use found in chapter 296-874 WAC; crane and derricks use found in chapter 296-155 WAC, Part L; elevated work platforms found in chapter 296-869 WAC; and use of hoists found in chapter 296-155 WAC, Part R.

Amended Sections:

WAC 296-155-775 Preparatory operations.

- Add clarifying language to subsection (1)(a). Proposed changes clarifies [clarify] that the determination of structural integrity includes the condition and structural integrity of framing, floors, and walls under subsection (1)(a). This language is also consistent with OSHA's requirement under 29 C.F.R. 1926.850(a).
- Renumber subsection (2) to subsection (1)(b) and add clarifying language that a copy of engineering survey is to be kept on the job site for the duration of the demolition operation.
- Add subsection (2)(a) requiring the development and implementation of a written demolition plan to incorporate conditions identified in the engineering survey.
- Add subsection (2)(b) to ensure that the written demolition plan be available on-site for inspection.
- Delete content in subsection (3), and renumber the following items.
- Reword subsection (4) for clarity.
- Update subsection (8) to divide into three new subsections (a), (b), and (c) to provide clarification.
- Subsection (8)(a) adds reference to adjacent structures that could be affected by the demolition operation.
- Subsection (8)(b) clarifies testing must be performed and hazards eliminated before demolition is started.
- Subsection (8)(c) adds reference to other federal, state, or local regulations, laws, or rules.
- Update title of subsection (9) to address removal of material that may cause dust to be formed.
- Add subsection (9)(a) to address the removal of material exposing employees to airborne hazards by following requirements in chapter 296-841 WAC, Airborne contaminants.
- Add subsection (9)(b) to address the removal of material exposing employees to respirable crystalline silica by following requirements in chapter 296-840 WAC, Respirable crystalline silica.
- Add language to subsection (10) to state hazards must be removed prior to starting demolition activities.
- Update language in subsection (11) whereby workers will be protected by the use of a guardrail system, safety net system, personal fall arrest system, or personal fall restraint system. Add language to clarify that a wall opening can include those with chutes attached. Add language to clarify when a hazard exists

from wall openings. Changes are to align with and be as-effective-as OSHA requirements. The current WAC requires protection "to a height of between 36 and 42 inches." OSHA's demolition rule requires protection "to a height of approximately 42 inches." OSHA's fall protection rule under 29 C.F.R. 1926.502 (b)(1) requires the "top edge height of top rails, or equivalent guardrail system members, shall be 42 inches plus or minus 3 inches above the walking/working level." The current requirement allowing a guardrail height of less than 39 inches is not-as-effective-as OSHA's requirements. This change will also align with the guarding requirements for openings in the unified fall protection standard under WAC 296-880-20005(4), previously under chapter 296-155 WAC, Safety standards for construction work, Part C-1, Fall protection requirements for construction, in WAC 296-155-24609. These are additional options that an employer can chose [choose] to use as an alternative to the requirement for guardrails.

- Add title in subsection (13) "Cover requirement-holes."
- Update language in subsection (13)(a) regarding load weight for hole covers. Add language to clarify the strength requirements for a hole cover to be consistent with the requirements under OSHA's construction fall protection rule under 29 C.F.R. 1926.502 (i)(2), and OSHA's 29 C.F.R. 1910.29 (e)(1) General Industry Standard; and, under DOSH's rule, chapter 296-880, Unified safety standards for fall protection. Requirement to cover holes addressed in WAC 296-880-20005(3). Cover specifications (strength) are addressed in WAC 296-880-40015.
- Add subsection (13)(b) to address signage to increase hazard warnings: "You must mark each cover with the word 'hole' or 'cover' to provide warning of the hazard." The current rule is silent on the marking of floor hole covers, however, the covers are fall protection and marking is required under OSHA 29 C.F.R. 1926.502 (i)(2) and DOSH's unified fall protection rule. Proposed changes will ensure alignment with the fall protection standards in WAC 296-880-40015(3).
- Update language in subsection (13)(c) regarding covers to read: "You must secure all covers to prevent accidental displacement by wind, equipment, or employees." Clarifies what it means to secure material against accidental movement means to secure to prevent displacement by wind, equipment, and employees. The [rule] also aligns DOSH's chapter 296-880 WAC, Unified safety standards for fall protection. The securing of floor opening covers in [is] covered under WAC 296-880-40015(2).
- Delete the term "completely" from subsection (16). The word "completely" is not defined in the standard, and is not necessary for implementation of the subsection. Completely is implied in the need to protect employees.
- Update language in subsection (17) for clarity to read: "You must withdraw, drive in, or bend over nails protruding from boards, planks or timber as soon as the same is removed from the structure being demolished." Proposed changes clarify the rule language using plain talk standards to make the rule more understandable.
- Delete subsection (18) as addressed under new language under WAC 296-155-775(9).

WAC 296-155-780 Stairs, passageways, and ladders.

- Replace the word "covered" with "cover" for clarity.

WAC 296-155-785 Chutes.

- Add language to update subsection (1) to be in accordance with WAC 296-155-775(12).
- Delete the word "substantial" from subsection (3), as it is not defined in chapter 296-155 WAC, Safety standards for construction work. Proposed changes clarify the rule language using plain talk standards to make the rule more understandable.
- Update language in subsection (5) to delete the word "substantial" and replace with the word "standard." Proposed change is to clarify that a "substantial" guardrail is a "standard" guardrail. Update the height of a guardrail from "36 to 42 inches" to "39 to 45 inches." Proposed changes are to align with OSHA to be as-effective-as OSHA requirements. Current language requires a "substantial guardrail between 36 and 42 inches above the floor [or] other surface" is less effective than OSHA. While OSHA's Demolition rule requires guarding to a height of 42 inches, OSHA's fall protection rule under 29 C.F.R. 1926.502 (b)(1) requires a top guard rail of 42 inches plus or minus 3 inches above the walking/working level (a minimum of 39 inches and a maximum of 45 inches). As such, requiring the height to be at least 39 inches is as-effective-as OSHA. This change also aligns with the wall opening requirements (top height of 39 inches) under DOSH's unified safety standards for fall protection in WAC 296-880-20005(4).

WAC 296-155-790 Removal of materials through floor openings.

- Delete the word "safely," as it is not defined in chapter 296-155 WAC, Safety standards for construction work. Proposed change is to clarify rule language using plain talk standards to make the rule more understandable. The term "safely" is implied.

WAC 296-155-795 Removal of walls, masonry sections, and chimneys.

- Update subsection (9) for clarity and delete the word "safely," as it is not defined in chapter 296-155 WAC, Safety standards for construction work. Proposed change is to clarify rule language using plain talk standards to make the rule more understandable. The term "safely" is implied.

WAC 296-155-810 Catch platforms.

- Update language in subsection (4) to state "Catch platforms must meet the strength requirements of supported scaffolds in chapter 296-874 WAC." Proposed language added based upon OSHA "Not At Least as Effective As" determination letter to DOSH regarding catch platforms. OSHA considers catch platforms to be scaffolds and as such have to meet the requisite strength and stability requirements of scaffolds.

Reasons Supporting Proposal: If demolition is not conducted according to a plan consistent with the engineering survey, hazards such as unplanned collapses and hazards from flying or dropping debris, can injure both workers and the public. The proposed rule requires a demolition plan be developed specific to a particular demolition project and in consideration of the engineering survey for the specific project and that the plan be implemented.

Proposed changes to align with chapter 296-880 WAC, Unified safety standards for fall protection; and to align with and be as-effective-

tive-as OSHA requirements under OSHA's fall protection, demolition, and general industry rules.

During the stakeholder process, many stakeholders expressed the proposed changes are considered industry best and standard practices, and industry participants have already been executing the requirements in their regular demolition operations.

When L&I updated its website, template DOSH rules in HTML were broken and DOSH began forwarding rule users to the office of the code reviser website, causing more confusion among customers. This rule package will resolve stakeholder issues that have caused confusion for rule users by bringing one clear and consistent format to all of our rules.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, 360-902-5516; Implementation and Enforcement: Craig Blackwood, Acting Assistant Director, DOSH, Tumwater, Washington, 360-902-5828.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Cathy Coates, Administrative Regulations Analyst, L&I, DOSH, P.O. Box 44620, Olympia, WA 98504-4620, phone 360-902-5432, fax 360-902-5619, email Cathy.Coates@lni.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The agency identified the following sections of the rule as nonexempt from analysis.

WAC 296-155-775(2): Currently, the demolition contractor is required to conduct an engineering survey to determine structural integrity and the possibility of unplanned collapse of any portion of the structure including any adjacent structures where employees may be exposed and to keep a copy of the survey report at the job site for the duration of demolition operation. The current rule also requires demolition contractors to keep a copy of the "plans and/or methods of operations" at the job site. However, the current rule does not explicitly require the employer to develop and follow the demolition plan or the safety recommendations contained in the survey. This proposed sub-

section is new and creates new requirements to (i) develop and implement a written tailored demolition plan incorporating structures from the engineering survey as well as the aforementioned conditions; and (ii) make the plan available on-site for inspection. This requirement therefore creates a new cost for the demolition contractor.

The increasing digitization of material and use of digital devices means the demolition contractor can have the entire demolition plan in digital form available on-site on a laptop or other mobile device at no additional cost. Therefore, the department believes that the requirement to make the demolition plan available on-site for inspection would impose minimal compliance costs for the demolition contractor.

As discussed in the cost-benefit analysis, L&I researchers conducted a survey of a representative sample of the businesses involved in various types of demolition activities, and their potential economic impact from the proposed amendments. The sample of two hundred twenty-seven businesses was randomly chosen from (1) a list of contractors obtained from demolition permit data from various counties, (2) the results of a general web search for demolition contractors in Washington state. The major amendments proposed by this rule making are related to site preparation during the demolition process. The demolition process ranges from the survey of the demolition site and any adjacent structure(s) to the physical deconstruction of the interior or the actual tear down of the substructure or super structure. The industries most directly involved in these activities include both residential and nonresidential/commercial construction operations, so the rule would mostly impact those businesses engaged in such projects:

Industries Likely Affected by the Proposed Rule:

4-Digit NAICS	Industry Group	6-Digit NAICS	Industry
2361	Residential Building Construction	236115	New Single-family Housing Construction (except for-sale builders)
		236116	New Multifamily Housing Construction (except for-sale builders)
		236117	New Housing For-Sale Builders
		236118	Residential Remodelers
2362	Nonresidential Building Construction	236210	Industrial Building Construction
		236220	Commercial and Institutional Building Construction
2371	Utility System Construction	237110	Water and Sewer Line and Related Structures Construction
		237120	Oil and Gas Pipeline and Related Structures Construction
2373	Highway, Street, and Bridge Construction	237310	Highway, Street, and Bridge Construction
2379	Other Heavy and Civil Engineering Construction	237990	Other Heavy and Civil Engineering Construction
2381	Foundation, Structure and Building Exterior Contractors	238120	Structural Steel and Precast Concrete Contractors
		238130	Framing Contractors
		238140	Masonry Contractors

4-Digit NAICS	Industry Group	6-Digit NAICS	Industry
		238190	Other Foundation, Structure, and Building Exterior Contractors
2382	Building Equipment Contractors	238210	Electrical Contractors and Other Wiring Installation Contractors
2389	Other Specialty Trade Contractors	238910	Site Preparation Contractors

L&I analyzed the estimates for the total cost for the proposed demolition plan requirement based on the median cost per square feet and the total size of all projects annually. L&I relied on the total number of businesses in these cost-bearing industries to estimate the per-business cost.

Estimated cost for compliance with development and implementation of a demolition plan:

	Small Project	Medium Project	Large Project	Total
Total sq. ft. of work covered by demolition plans per year*	1.85 million	8.90 million	13.74 million	24.62 million
Median cost per sq. ft.	\$0.58	\$0.26	\$0.24	-
Total annual cost - low	\$443,581	\$2,135,481	\$3,298,447	\$5,877,509
Total annual cost - high	\$1,071,987	\$5,160,746	\$7,971,247	\$14,203,980

* These numbers are derived from the surveyed sample of businesses that reported the size of each type of projects (small, medium, large) and the number of projects they perform each year. Then the average total number of square footage of work per business per year is multiplied by the number of affected businesses to arrive at the total square footage of work for the whole population.

When compared to the minor-cost threshold (one percent of annual payroll), it clearly indicates the average per-business cost of these proposed rule amendments is far below the threshold for businesses in any of the affected industries analyzed. L&I determined a small business economic impact statement is not required for this rule making pursuant to RCW 19.85.030(1).

Average Cost V.S. Minor Cost Threshold:

4-Digit NAICS	Industry Description	Average Number of Firms	1% of Annual Payroll	Regulatory Cost Per Business (Low to High)	
2361	Residential Building Construction	7,380	\$24,241.38	\$356.25	\$1,178.55
2362	Nonresidential Building Construction	1,089	\$68,979.37	\$1,907.89	\$6,311.82
2371	Utility System Construction	362	\$36,963.62	\$1,429.21	\$4,728.22
2373	Highway, Street, and Bridge Construction	250	\$20,427.19	\$2,466.36	\$8,159.37
2379	Other Heavy and Civil Engineering Construction	170	\$18,625.89	\$1,724.97	\$5,706.66
2381	Foundation, Structure and Building Exterior Contractors	1,453	\$69,246.64	\$683.38	\$2,260.79
2382	Building Equipment Contractors	2,124	\$20,441.56	\$1,009.22	\$3,338.78
2389	Other Specialty Trade Contractors	934	\$10,654.49	\$656.13	\$2,170.64
TOTAL		14,210			

* The per business cost was determined by the proportion of the average annual employment to the low and high cost range.

February 2, 2021
Joel Sacks
Director

OTS-2035.6

NEW SECTION

WAC 296-155-774 Definitions and applicability. This part sets forth requirements to protect employees from hazards associated with demolition operations.

Competent person. One who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective action to eliminate them.

Demolition. Dismantling, razing, destroying, or wrecking any building or structure or any part thereof, including any related handling operations.

When a provision of this chapter conflicts with a provision of another vertical safety standard applying to the place of work, the provisions of the vertical standard of specific application will prevail.

Reference:

Requirements for the use of ladders found in chapter 296-876 WAC.

Requirements for the use of scaffolds found in chapter 296-874

WAC.

Requirements for the use of cranes and derricks found in chapter 296-155 WAC, Part L.

Requirements for the use of elevated work platforms found in chapter 296-869 WAC.

Requirements for the use of hoists found in chapter 296-155 WAC, Part R.

[]

AMENDATORY SECTION (Amending WSR 16-09-085, filed 4/19/16, effective 5/20/16)

WAC 296-155-775 Preparatory operations. (1)(a) Prior to permitting employees to start demolition operations, ~~((you must make an engineering survey, by a competent person,))~~ a competent person must perform an engineering survey of the structure(s) to determine the condition and structural integrity of the framing, floors, walls, and the possibility of unplanned collapse of any portion of the structure(s). Any adjacent structure(s) where employees may be exposed must also be similarly checked. ~~((You must similarly check adjacent structures where employees may be exposed. You must have in writing, evidence that such a survey has been performed.~~

~~(2) You must maintain a copy of the survey report and of the plans and/or methods of operations at the job site for the duration of the demolition operation))~~ (b) You must maintain a copy of the engineering survey at the job site for the duration of the demolition operation.

(2) (a) You must develop and implement a written demolition plan tailored to the operation and to the types of hazards involved. The demolition plan must incorporate conditions of the framing, floors, and walls, and potential of unplanned collapse of any portion of the structure(s) identified in the engineering survey.

(b) The demolition plan must be available on the job site for inspection by the department.

~~(3) ((Any device or equipment such as scaffolds, ladders, derricks, hoists, etc., used in connection with demolition work must be constructed, installed, inspected, maintained and operated in accordance with the regulations governing the construction, installation, inspection, maintenance and operation of such device or equipment as specified in other parts of this chapter.~~

~~(4))~~ You must observe federal and state codes, safety standards, rules, regulations, and ordinances governing any and all phases of demolition work at all times.

~~((5))~~ (4) You must conduct demolition of all buildings and structures under ~~((competent))~~ the supervision ~~((, and you must afford safe working conditions to the employees))~~ of a competent person.

~~((6))~~ (5) When employees are required to work within a structure to be demolished which has been damaged by fire, flood, explosion, or other cause, you must shore or brace the walls or floors.

~~((7))~~ (6) You must shut off, cap, or otherwise control all electric, gas, water, steam, sewer, and other service lines outside the building line before demolition work is started. In each case, you must notify any utility company which is involved in advance.

~~((8))~~ (7) If it is necessary to maintain any power, water or other utilities during demolition, such lines must be temporarily re-located, as necessary, and protected.

~~((9))~~ (8)(a) You must determine ~~((whether))~~ if asbestos, hazardous materials, hazardous chemicals, gases, explosives, flammable materials, or similarly dangerous substances are present at the ~~((work site))~~ worksite and adjacent structures that could be affected by the demolition operation.

(b) When the presence of any such substance is apparent or suspected, ~~((you must perform))~~ testing and removal ~~((or purging and eliminate))~~ must be performed and the hazard eliminated before demolition is started.

(c) Testing and removal of such substances must be in accordance with the requirements of chapters 296-62 and 296-65 WAC, and any other applicable federal, state, or local regulations, laws, or rules.

(9) When the removal of material may cause dust to be formed:

(a) When the removal of material may expose employees to airborne hazards the requirements in chapter 296-841 WAC must be followed.

(b) When the removal of material may expose employees to respirable crystalline silica, the requirements in chapter 296-840 WAC must be followed.

(10) Where a hazard exists from fragmentation of glass, you must remove such hazards prior to starting demolition activities.

~~((Where a hazard exists to employees falling through wall openings, you must protect the opening to a height of between 36 and 42 inches.))~~ You must ensure that each employee working on, at, above, or near wall openings (including those with chutes attached) where the outside bottom edge of the wall opening is 4 feet or more above a lower level and the inside bottom edge of the wall opening is less than 39 inches above the working surface, are protected from falling by the use of a guardrail system, safety net system, personal fall arrest system, or personal fall restraint system in accordance with chapter 296-880 WAC, Unified safety standards for fall protection.

(12) When debris is dropped without the use of chutes, the area onto which the material is dropped must be completely enclosed with barricades not less than 42 inches high and not less than 20 feet back

from the projected edge of the opening above. You must post signs, warning of the hazard of falling materials, at each level. You must not permit removal in this lower area until debris handling ceases above.

(13) ~~((All floor openings, not used as material drops, must be covered over with material substantial enough to support the weight of any load which may be imposed))~~ Cover requirement - Holes.

(a) Hole covers must be capable of supporting, without failure, at least twice the weight of employees, equipment, and materials that may be imposed on the cover at any one time.

(b) You must mark each cover with the word "hole" or "cover" to provide warning of the hazard.

(c) You must ~~((properly))~~ secure ~~((such material))~~ all covers to prevent ~~((its))~~ accidental ~~((movement))~~ displacement by wind, equipment, or employees.

(14) Except for the cutting of holes in floors for chutes, holes through which to drop materials, preparation of storage space, and similar necessary preparatory work, you must begin the demolition of exterior walls and floor construction at the top of the structure and proceed downward. You must remove and drop each story of exterior wall and floor construction into the storage space before commencing the removal of exterior walls and floors in the story next below.

(15) You must not permit workers to carry on a demolition operation which will expose persons working on a lower level to danger.

(16) You must ~~((completely))~~ protect employee entrances to multi-story structures being demolished by sidewalk sheds or canopies, or both, providing protection from the face of the building for a minimum of 8 feet. All such canopies must be at least two feet wider than the building entrances or openings (one foot wider on each side thereof), and must be capable of sustaining a load of 150 pounds per square foot.

(17) You must withdraw, drive in, or bend over nails protruding ~~((nails in))~~ from boards, planks ~~((and))~~ or timber ~~((, driven in or bent over))~~ as soon as the same is removed from the structure being demolished.

~~((18) You must sprinkle any material to be removed which will cause dust to be formed, with water to lay the dust incidental to its removal.))~~

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-775, filed 4/19/16, effective 5/20/16. Statutory Authority: Chapter 49.17 RCW. WSR 94-15-096 (Order 94-07), § 296-155-775, filed 7/20/94, effective 9/20/94; WSR 87-24-051 (Order 87-24), § 296-155-775, filed 11/30/87. Statutory Authority: RCW 49.17.050(2) and 49.17.040. WSR 87-10-008 (Order 87-06), § 296-155-775, filed 4/27/87. Statutory Authority: RCW 49.17.040 and 49.17.050. WSR 86-03-074 (Order 86-14), § 296-155-775, filed 1/21/86; Order 74-26, § 296-155-775, filed 5/7/74, effective 6/6/74.]

AMENDATORY SECTION (Amending WSR 16-09-085, filed 4/19/16, effective 5/20/16)

WAC 296-155-780 Stairs, passageways, and ladders. (1) You must only use those stairways, passageways, and ladders, designated as

means of access to the structure of building. Other access ways must be entirely closed off at all times.

(2) You must periodically inspect all stairs, passageways, ladders and incidental equipment thereto, which are covered by this section and maintain them in a clean safe condition.

(3) You must secure all ladders in position.

(4) In a multistory building, when a stairwell is being used, you must properly illuminate by either natural or artificial means, and completely and substantially (~~covered~~) cover over at a point not less than two floors below the floor on which work is being performed. Access to the floor where the work is in progress must be through a properly lighted, protected, and separate passageway.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-780, filed 4/19/16, effective 5/20/16; Order 74-26, § 296-155-780, filed 5/7/74, effective 6/6/74.]

AMENDATORY SECTION (Amending WSR 16-09-085, filed 4/19/16, effective 5/20/16)

WAC 296-155-785 Chutes. (1) You must not drop any material to any point lying outside the exterior walls of the structure unless the area is (~~effectively~~) protected in accordance with WAC 296-155-775(12).

(2) All materials chutes, or sections thereof, at an angle of more than 45° from the horizontal, must be entirely enclosed, except for openings equipped with closures at or about floor level for the insertion of materials. The openings must not exceed 48 inches in height measured along the wall of the chute. At all stories below the top floor, you must keep such openings closed when not in use.

(3) You must install a (~~substantial~~) gate in each chute at or near the discharge end. A competent employee must be assigned to control the operation of the gate, and the backing and loading of trucks.

(4) When operations are not in progress, you must securely close off the area surrounding the discharge end of a chute.

(5) You must protect any chute opening, into which workers dump debris, by a (~~substantial~~) standard guardrail between (~~36~~) 39 and (~~42~~) 45 inches above the floor or other surface on which the employees stand to dump the material. You must solidly cover over any space between the chute and the edge of openings in the floors through which it passes.

(6) Where the material is dumped from mechanical equipment or wheelbarrows, you must provide a securely attached toeboard or bumper, not less than 4 inches thick and 6 inches high, at each chute opening.

(7) Chutes must be designed and constructed of such strength as to eliminate failure due to impact of materials or debris loaded therein.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-785, filed 4/19/16, effective 5/20/16. Statutory Authority: Chapter 49.17 RCW. WSR 94-15-096 (Order 94-07), § 296-155-785, filed 7/20/94, effective 9/20/94; Order 74-26, § 296-155-785, filed 5/7/74, effective 6/6/74.]

AMENDATORY SECTION (Amending WSR 16-09-085, filed 4/19/16, effective 5/20/16)

WAC 296-155-790 Removal of materials through floor openings.

Any openings cut in a floor for the disposal of materials must be no larger in size than 25% of the aggregate of the total floor area, unless the lateral supports of the removed flooring remain in place. Floors weakened or otherwise made unsafe by demolition operations must be shored to carry ((safely)) the intended imposed load from demolition operations.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-790, filed 4/19/16, effective 5/20/16; Order 74-26, § 296-155-790, filed 5/7/74, effective 6/6/74.]

AMENDATORY SECTION (Amending WSR 16-09-085, filed 4/19/16, effective 5/20/16)

WAC 296-155-795 Removal of walls, masonry sections, and chimneys. (1) You must not permit masonry walls, or other sections of masonry, to fall upon the floors of the building in such masses as to exceed the safe carrying capacities of the floors.

(2) You must not permit any wall section, which is more than one story in height, to stand alone without lateral bracing, unless such wall was originally designed and constructed to stand without such lateral support, and is in a condition safe enough to be self-supporting. You must leave all walls in a stable condition at the end of each shift.

(3) You must not permit employees to work on the top of a wall when weather conditions constitute a hazard.

(4) You must not cut or remove structural or load-supporting members on any floor until all stories above such a floor have been demolished and removed. This provision must not prohibit the cutting of floor beams for the disposal of materials or for the installation of equipment, provided that the requirements of WAC 296-155-790 and 296-155-800 are met.

(5) You must plank solid floor openings within 10 feet of any wall being demolished, except when employees are kept out of the area below.

(6) In buildings of "skeleton-steel" construction, the steel framing may be left in place during the demolition of masonry. Where this is done, you must clear all steel beams, girders, and similar structural supports of all loose material as the masonry demolition progresses downward.

(7) You must provide walkways or ladders to enable employees to safely reach or leave any scaffold or wall.

(8) You must not demolish walls, which serve as retaining walls to support earth or adjoining structures, until such earth has been properly braced or adjoining structures have been properly underpinned.

(9) You must not use walls (~~(, which are to serve)~~) as retaining walls against which debris will be piled, unless such walls are capable of ((safely)) supporting the imposed load.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-795, filed 4/19/16, effective 5/20/16; Order 74-26, § 296-155-795, filed 5/7/74, effective 6/6/74.]

AMENDATORY SECTION (Amending WSR 16-09-085, filed 4/19/16, effective 5/20/16)

WAC 296-155-810 Catch platforms. (1) During the demolition of the exterior walls of a structure originally more than 70 feet high, you must erect catch platforms along the exterior faces of such walls where necessary to prevent injury to persons working below.

(2) You must construct and maintain such catch platforms not more than 3 stories below the story from which the exterior walls are being removed, until the demolition has progressed to within 3 stories of the ground level.

(3) Catch platforms must not be less than 5 feet in width measured in a horizontal distance from the face of the structure and constructed of outriggers and planks. You must lay planks tight together and without openings between the planks and the wall.

Note: Catch platforms may be constructed of other approved materials of equal strength and security against falling material.

(4) Catch platforms must ~~((be capable of sustaining a uniform live load of not less than 125 pounds per square foot))~~ meet the strength and stability requirements of supported scaffolds in chapter 296-874 WAC.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 16-09-085, § 296-155-810, filed 4/19/16, effective 5/20/16; Order 74-26, § 296-155-810, filed 5/7/74, effective 6/6/74.]

WSR 21-04-134

WITHDRAWAL OF PROPOSED RULES

STATE BOARD OF EDUCATION

(By the Code Reviser's Office)

[Filed February 2, 2021, 12:32 p.m.]

WAC 180-51-025, proposed by the state board of education in WSR 20-15-151, appearing in issue 20-15 of the Washington State Register, which was distributed on August 5, 2020, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Jennifer C. Meas, Editor
Washington State Register

WSR 21-04-136

PROPOSED RULES

DEPARTMENT OF HEALTH

STATE BOARD OF HEALTH

[Filed February 2, 2021, 1:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-11-089.

Title of Rule and Other Identifying Information: Chapter 246-101 WAC, Notifiable conditions, the state board of health (SBOH) and the department of health (DOH) jointly propose changes to add notification and specimen submission requirements; change notification and specimen submission requirements for existing conditions; clarify notification requirements for suspected cases; revise reporting requirements for veterinarians and the Washington state department of agriculture (WSDA); update references; and improve clarity and usability of the rule.

Hearing Location(s): On March 10, 2021, at 1:30 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, SBOH will not provide a physical location for this hearing to promote physical distancing and the safety of the citizens of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Board members, presenters, and staff will all participate remotely. The public may log in using a computer or device, or call-in using a phone to listen to the meeting through the GoToWebinar application. The public may submit verbal comments during the specified public comment and rules hearing segments. 1. To access the meeting online and register <https://attendee.gotowebinar.com/register/2317880874509776139>. 2. You can also dial-in and listen/observe only using your phone +1(631)992-3221, Access Code 137-802-389.

Date of Intended Adoption: March 10, 2021.

Submit Written Comments to: Kaitlyn Donahoe, P.O. Box 47990, Olympia, WA 98504-7990, email <https://fortress.wa.gov/doh/policyreview>, notifiableconditions@sboh.wa.gov, by February 26, 2021.

Assistance for Persons with Disabilities: Melanie Hisaw, phone 360-236-3301, TTY 711, email melanie.hisaw@sboh.wa.gov, by February 22, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the chapter is to provide critical information to public health authorities to aid them in protecting and improving public health through prevention and control of infectious and noninfectious conditions as required under law. Public health authorities use the information gathered under this chapter to take appropriate action, including, but not limited to: Treating ill people; providing preventive therapies for individuals who came into contact with infectious agents; investigating and halting outbreaks; removing harmful health exposures from the environment; assessing broader health-related patterns, including historical trends, geographic clustering, and risk factors; and redirecting program activities and developing policies based on broader health-related patterns. The chapter establishes notification requirements and standards for conditions that pose a threat to public health consistent with this purpose and the authorizing statutes it is adopted under.

The current rules require health care providers, health care facilities, laboratories, veterinarians, food service establishments, child care facilities, and schools to notify public health authorities

of cases of notifiable conditions identified in this chapter, cooperate with public health authorities when conducting case investigations, and follow infection control measures when necessary to control the spread of disease.

The proposed rules significantly amend notification requirements applicable to health care providers, health care facilities, laboratories, local health jurisdictions and veterinarians; create notification requirements for WSDA; and clarify requirements for food service establishments, schools, child care facilities, and the general public. Proposed changes to the rules include: (1) Adding or revising notification and specimen submission requirements for seventy-four new or existing conditions; (2) eliminating three categories of conditions (other rare diseases of public health significance, emerging conditions with outbreak potential and disease of suspected bioterrorism origin); (3) eliminating notification requirements for veterinarians and clarifying requirements for veterinarians to cooperate with public health authorities during case investigations; (4) establishing notification requirements for WSDA; (5) updating local health jurisdiction duties to reflect current technology used for notifying the department, clarifying existing and establishing new notification timelines, and clarifying notification, case report, and outbreak report content requirements; (6) updating reference to the security and confidentiality guidelines developed by the Centers for Disease Control and Prevention; (7) updating statutory references throughout the chapter; and (8) improving overall clarity and usability of the chapter by merging health care provider and facility rules, repealing unnecessary rules, clarifying requirements for suspected cases of notifiable conditions, and revising language consistent with clear rule-writing standards.

In addition to these proposed changes, the board and department received feedback from interested parties that prompted additional proposed revisions. A prior CR-102 filing for these rules (WSR 20-13-062) was withdrawn on December 4, 2020 (WSR 21-01-028). Further proposed changes include: (1) Addition of preferred language to the list of data components that must be included in WAC 246-101-105, 246-101-115, 246-101-205, 246-101-215, and 246-101-225, as well as defined reporting categories for ethnicity, race, and preferred language in these sections; (2) inclusion of enhanced service facilities licensed under chapter 70.97 RCW to the definition of a health care facility; (3) required reporting of animal cases of novel coronavirus (COVID-19), SARS-associated coronavirus, and MERS-associated coronavirus by WSDA; (4) editorial revisions consistent with statutory changes in ESHB 1551 (chapter 76, Laws of 2020); and (5) further editorial changes for clarity and usability.

Reasons Supporting Proposal: The rules were last revised in 2011. Since then, there have been a number of advances and developments which can only be addressed in rule. The board and department have proposed changes to chapter 246-101 WAC to better protect public health by improving our understanding of emerging conditions, allowing more thorough case investigations, and improving the public health response to infectious and noninfectious conditions. The public health goals for these changes are to reduce the risk of transmission of disease and prevent serious complications and fatalities.

Statutory Authority for Adoption: RCW 43.20.050, 70.104.055, 43.70.545, 70.24.125, 70.104.030, 70.24.130, 70.24.380, and 70.28.032.

Statute Being Implemented: RCW 70.104.055, 43.70.545, 70.28.010, and 70.05.060; ESHB 1551 (chapter 76, Laws of 2020).

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

Name of Proponent: SBOH and WSDA, governmental.

Name of Agency Personnel Responsible for Drafting: Kaitlyn Donahoe, 101 Israel Road S.E., Tumwater, WA 98504-7990, 360-584-6737; Implementation and Enforcement: Alexandra Montano, 101 Israel Road S.E., Tumwater, WA 98504-7990, 360-236-4205.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kaitlyn Donahoe, P.O. Box 47990, Olympia, WA 98504-7990, phone 360-584-6737, TTY 711, email kaitlyn.donahoe@sboh.wa.gov.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement

Based on calculated minor cost thresholds and the summary of costs which can be found in the complete small business economic impact statement, DOH and SBOH assume that the proposed rules will impose more-than-minor costs on the businesses in the industry. The minor cost thresholds based on one percent of average annual payroll range from \$1,482.68 to \$622,801.12 depending on the entity. The minor cost thresholds based on 0.3% of average annual receipts range from \$351.33 to \$156,044.36 depending on the entity. The estimated costs of the rules exceed these number[s] for at least some entities. For example, laboratories have a probable one-time cost of up to \$49,768, plus \$0 - \$41,795.80 in annual costs, plus costs per case, which exceeds the \$15,104.13 minor cost threshold for laboratories based on average annual payroll.

A copy of the statement may be obtained by contacting Kaitlyn Donahoe, P.O. Box 47990, Olympia, WA 98504-7990, phone 360-584-6737, TTY 711, email kaitlyn.donahoe@sboh.wa.gov.

January 29, 2021
Michelle A. Davis
and Jessica Todorovich
SBOH Executive Director
and Chief of Staff
for Umair A. Shah
Secretary

OTS-1363.7

PART I: GENERAL PROVISIONS

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-005 Purpose (~~(of notifiable conditions reporting)~~) and scope. (1) The purpose of (~~(notifiable conditions reporting)~~) this chapter is to provide (~~(the information necessary for public health officials to protect the public's health by tracking communicable diseases and other conditions. These data are critical to local health departments and the departments of health and labor and industries in their efforts to prevent and control the spread of diseases and other conditions. Public health officials take steps to protect the public, based on these notifications. Treating persons already ill, providing preventive therapies for individuals who came into contact with infectious agents, investigating and halting outbreaks, and removing harmful health exposures are key ways public health officials protect the public. Public health workers also use these data to assess broader patterns, including historical trends and geographic clustering. By analyzing the broader picture, officials are able to take appropriate actions, including outbreak investigation, redirection of program activities, or policy development)~~) critical information to public health authorities to aid them in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions. Public health authorities use the information gathered under this chapter to take appropriate action including, but not limited to:

- (a) Treating ill persons;
 - (b) Providing preventive therapies for individuals who came into contact with infectious agents;
 - (c) Investigating and halting outbreaks;
 - (d) Removing harmful health exposures from the environment;
 - (e) Assessing broader health-related patterns, including historical trends, geographic clustering, and risk factors; and
 - (f) Redirecting program activities and developing policies based on broader health-related patterns.
- (2) This chapter establishes notification requirements and standards for conditions that pose a threat to public health consistent with the purpose as established in this section.

[Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-005, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 14-11-009, filed 5/8/14, effective 6/8/14)

WAC 246-101-010 Definitions (~~(within the notifiable conditions regulations)~~), abbreviations, and acronyms. The (~~(following)~~) definitions, abbreviations, and acronyms in this section apply (~~(in the interpretation and enforcement of)~~) throughout this chapter unless the context clearly requires otherwise:

- (1) "Animal case" means an animal, alive or dead, with a diagnosis or suspected diagnosis of a notifiable condition in Table Agriculture-1 of WAC 246-101-805 made by a veterinarian licensed under chapter 18.92 RCW, veterinary medical facility licensed under chapter 18.92 RCW, or veterinary laboratory as defined under chapter 16.70 RCW based on clinical criteria, or laboratory criteria, or both.

(2) "Animal case report" means the data and other supporting information submitted by the Washington state department of agriculture to the department under WAC 246-101-810 for an individual animal with a notifiable condition.

(3) "Associated death" means a death resulting directly or indirectly from ~~((the confirmed condition of influenza or varicella. There should be))~~ a case of the specified condition, with no period of complete recovery between the ~~((illness))~~ onset of the condition and death.

~~((2))~~ (4) "Blood lead level" means a measurement of lead content in whole blood.

~~((3))~~ (5) "Board" means the Washington state board of health.

~~((4))~~ (6) "Business day" means any day that the department is open for business.

(7) "Carrier" means a person harboring a specific infectious agent without developing symptoms and serving as a potential source of infection to others.

~~((5))~~ (8) "Case" means a person, alive or dead, ~~((diagnosed))~~ with a ~~((particular disease or))~~ diagnosis or suspected diagnosis of a condition made by a health care provider ~~((with diagnosis)), health care facility, or laboratory based on clinical criteria, or laboratory criteria, or both, such as the Centers for Disease Control and Prevention, National Notifiable Diseases Surveillance System, Council of State and Territorial Epidemiologists case definitions.~~

~~((6) "Child day care facility" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.~~

~~(7) "Condition notifiable within three business days" means a notifiable condition that must be reported to the local health officer or the department within three business days following date of diagnosis. For example, if a condition notifiable within three business days is diagnosed on a Friday afternoon, the report must be submitted by the following Wednesday))~~ (9) "Case report" means the data and other supporting information submitted by a health care provider or health care facility to public health authorities under WAC 246-101-115 for an individual patient with a notifiable condition.

~~((8))~~ (10) "Communicable disease" means ~~((a))~~ an infectious disease ~~((caused by an infectious agent))~~ that can be transmitted from ~~((one))~~ a person, animal, or object to ~~((another))~~ a person by direct or indirect means including, but not limited to, transmission through an intermediate host or vector, food, water, or air.

~~((9) "Contact" means a person exposed to an infected person, animal, or contaminated environment that may lead to infection.~~

~~(10))~~ (11) "Condition" means an infectious or noninfectious condition as these terms are defined in this chapter.

(12) "Department" or "DOH" means the Washington state department of health.

~~((11) "Disease of suspected bioterrorism origin" means a disease caused by viruses, bacteria, fungi, or toxins from living organisms that are used to produce death or disease in humans, animals, or plants. Many of these diseases may have nonspecific presenting symptoms. The following situations could represent a possible bioterrorism event and should be reported immediately to the local health department:~~

~~(a) A single diagnosed or strongly suspected case of disease caused by an uncommon agent or a potential agent of bioterrorism occurring in a patient with no known risk factors;~~

~~(b) A cluster of patients presenting with a similar syndrome that includes unusual disease characteristics or unusually high morbidity or mortality without obvious etiology; or~~

~~(c) Unexplained increase in a common syndrome above seasonally expected levels.~~

~~(12) "Elevated blood lead level" means blood lead levels equal to or greater than 10 micrograms per deciliter for persons aged fifteen years or older, or equal to or greater than 5 micrograms per deciliter in children less than fifteen years of age.~~

~~(13) "Emerging condition with outbreak potential" means a newly identified condition with potential for person-to-person transmission.~~

~~(14) "Food service establishment" means a place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer regardless of whether or not compensation for food occurs.~~

~~(15)) (13) "Health care-associated infection" means ((an infection acquired in a health care facility)) a localized or systemic condition that results from adverse reaction to the presence of an infectious agent or its toxins and that was not present or incubating at the time of admission to the hospital.~~

~~((16)) (14) "Health care facility" means:~~

~~(a) ((Any)) Assisted living ((facility)) facilities licensed under chapter 18.20 RCW;~~

~~(b) Birthing centers licensed under chapter 18.46 RCW;~~

~~(c) Nursing homes licensed under chapter 18.51 RCW;~~

~~(d) Hospitals licensed under chapter 70.41 RCW;~~

~~(e) Adult family homes licensed under chapter 70.128 RCW;~~

~~(f) Ambulatory surgical ((facility)) facilities licensed under chapter 70.230 RCW; ~~((or))~~~~

~~(g) Private establishments licensed under chapter 71.12 RCW;~~

~~((b)) (h) Enhanced service facilities licensed under chapter 70.97 RCW;~~

~~(i) Clinics, or other settings where one or more health care providers practice; and~~

~~((e)) (j) In reference to a sexually transmitted ((disease)) infection, other settings as defined in chapter 70.24 RCW.~~

~~((17)) (15) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care whose scope of practice allows for diagnosis and treatment of notifiable conditions and who is:~~

~~(a) Licensed or certified in this state under Title 18 RCW; or~~

~~(b) Military personnel providing health care within the state regardless of licensure.~~

~~((18) "Health care services to the patient" means treatment, consultation, or intervention for patient care.~~

~~(19) "Health carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.~~

~~(20) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 246-100-207. To assure that the protection, including, but not limited to, pre- and post-test counseling, consent, and confidentiality afforded to HIV testing as described in chapter 246-100 WAC also applies to the enumeration of CD4 + (T4) lymphocyte counts (CD4 + counts) and~~

~~CD4 + (T4) percents of total lymphocytes (CD4 + percents) when used to diagnose HIV infection, CD4 + counts and CD4 + percents will be presumed HIV testing except when shown by clear and convincing evidence to be for use in the following circumstances:~~

- ~~(a) Monitoring previously diagnosed infection with HIV;~~
- ~~(b) Monitoring organ or bone marrow transplants;~~
- ~~(c) Monitoring chemotherapy;~~
- ~~(d) Medical research; or~~
- ~~(e) Diagnosis or monitoring of congenital immunodeficiency states or autoimmune states not related to HIV.~~

~~The burden of proving the existence of one or more of the circumstances identified in (a) through (e) of this subsection shall be on the person asserting the existence.~~

~~((21)) (16) "Immediately ((notifiable condition))" means ((a notifiable condition of urgent public health importance, a case or suspected case of which must be reported to the local health officer or the department)) without delay, twenty-four hours a day, seven days a week.~~

~~(a) For health care providers and health care facilities, immediately means at the time ((of diagnosis or suspected diagnosis, twenty-four hours a day, seven days a week)) a case is identified;~~

~~(b) For laboratories, immediately means upon receiving a presumptive or final test result; or~~

~~(c) For state agencies and local health jurisdictions, immediately means upon receiving notification of a case.~~

~~((22)) (17) "Infection control measures" means the management of an infected person((s)), or of a person suspected to be infected, and others in a manner to prevent transmission of the infectious agent. Infection control measures include, but are not limited to, isolation and quarantine.~~

~~(18) "Infectious condition" means a disease caused by a pathogenic organism such as bacteria, virus, fungus, parasite, or infectious agent, and includes communicable disease and zoonotic disease.~~

~~(19) "Influenza, novel" or "influenza virus, novel" means a human infection with an influenza A virus subtype that is different from currently circulating human influenza subtypes. Novel subtypes include, but are not limited to, H2, H5, H7, and H9 subtypes.~~

~~((23)) (20) "Institutional review board" ((means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects)) has the same meaning as defined in RCW 70.02.010.~~

~~((24)) (21) "Investigation report" means the data and other supporting information submitted by a local health jurisdiction to the department under WAC 246-101-513(2) for an individual patient with a notifiable condition.~~

~~(22) "Isolation" means the separation ((or restriction of activities of infected individuals, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent)) of infected or contaminated persons or animals from others to prevent or limit the transmission of the infectious agent or contaminant from those infected or contaminated to those who are susceptible to disease or who may spread the infectious agent or contaminant to others.~~

~~((25)) (23) "Laboratory" means any facility licensed as a test site or medical test site under chapter 70.42 RCW and chapter 246-338~~

WAC, including any laboratory that is granted a Clinical Laboratory Improvement Amendment (CLIA)-Waiver.

~~((26))~~ (24) "Laboratory director" means the ((director or manager,)) person, or person's designee, by whatever title known, having the administrative responsibility ((in any licensed medical test site)) for a laboratory.

~~((27))~~ (25) "Laboratory report" means the data and other supporting information submitted by a laboratory director to public health authorities under WAC 246-101-225 for an individual patient with a notifiable condition.

(26) "Local health ((department" means the city, town, county, or district agency providing public health services to persons within the area, established under chapters 70.05, 70.08, and 70.46 RCW)) jurisdiction" or "LHJ" means a county health department under chapter 70.05 RCW, city-county health department under chapter 70.08 RCW, or health district under chapter 70.46 RCW.

~~((28))~~ (27) "Local health officer" means the ((individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

(29) "Member of the general public" means any person present within the boundary of the state of Washington.

(30) "Monthly notifiable condition" means a notifiable condition which must be reported to the local health officer or the department within one month of diagnosis.

~~((31))~~ legally qualified physician who has been appointed as the health officer for the local health jurisdiction under chapter 70.05 RCW, or their designee.

(28) "MERS" means Middle East respiratory syndrome.

(29) "Noninfectious condition" means a disease or health concern that may lead to disease caused by nonpathogenic factors.

(30) "Notifiable condition" means a ((disease or)) condition ((of public health importance)) identified in Table HC-1 of WAC 246-101-101, Table Lab-1 of WAC 246-101-201, or Table Agriculture-1 of WAC 246-101-805, a case of which ((, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer or the state health officer.

(32) "Other rare diseases of public health significance" means a disease or condition, of general or international public health concern, which is occasionally or not ordinarily seen in the state of Washington including, but not limited to, spotted fever rickettsiosis, babesiosis, tick paralysis, anaplasmosis, and other tick borne diseases. This also includes public health events of international concern and communicable diseases that would be of general public concern if detected in Washington.

~~((33))~~ requires notification to public health authorities under this chapter; or a condition designated by the local health officer as notifiable within their jurisdiction under WAC 246-101-505 (4) (d). Notifiable condition does not include provisional conditions as defined under WAC 246-101-015.

(31) "Outbreak" means the occurrence ((of cases or suspected cases)) of a ((disease or)) condition in ((any)) an area over a given period of time in excess of the expected number of ((cases)) occurrences including, but not limited to, foodborne disease, waterborne disease, and health care-associated infection.

~~((34))~~ "Patient" means a case, suspected case, or contact.

~~(35))~~ (32) "Outbreak report" means the data and other supporting information about an outbreak that local health jurisdictions submit to the department under WAC 246-101-513(3) following investigation of an outbreak.

(33) "PCR" means polymerase chain reaction.

(34) "Pesticide poisoning" means the disturbance of function, damage to structure, or illness in humans resulting from the inhalation, absorption, ingestion of, or contact with any pesticide.

~~((36))~~ (35) "Presumptive" means a preliminary test result that has not yet been confirmed as a definitive result.

(36) "Principal health care provider" means the attending health care provider recognized as primarily responsible for diagnosis or treatment of a patient, or in the absence of such, the health care provider initiating diagnostic testing or treatment for the patient.

(37) "Provisional condition" means a condition the department has requested be reported under WAC 246-101-015.

(38) "Public health authorities" ((means)) includes local health ((departments)) jurisdictions, the ((state health)) department, ((and)) the department of labor and industries ((personnel charged with administering provisions of this chapter.

~~(38))~~, the department of agriculture, sovereign tribal nations, and tribal epidemiology centers.

(39) "Quarantine" means the ((separation or restriction on activities of an individual having been exposed to or infected with an infectious agent, to prevent disease transmission.

~~(39))~~ limitation of freedom of movement of persons or domestic animals that have been exposed to, or are suspected to have been exposed to, an infectious agent:

(a) For a period of time not longer than the longest usual incubation period of the infectious agent; and

(b) In a way to prevent effective contact with those not exposed.

(40) "Rapid screening test" or "RST" means a U.S. Food and Drug Administration-approved or authorized test that provides same day results and is suitable for obtaining presumptive test results. RST includes point-of-care testing.

(41) "Reference laboratory" means a laboratory licensed inside or outside of Washington state that receives a specimen from another licensed laboratory and performs one or more tests on that specimen.

(42) "School" ((means a facility for programs of education as defined)) has the same meaning as in RCW 28A.210.070 ((preschool and kindergarten through grade twelve)).

~~((40))~~ (43) "SARS" means severe acute respiratory syndrome.

(44) "Secretary" means the secretary of the Washington state department of health.

(45) "Secure electronic data transmission" means electronic communication and accounts developed and maintained to prevent unauthorized access, loss, or compromise of sensitive information including, but not limited to, secure file transfer, secure email, secure facsimile, a health information exchange authorized under RCW 41.05.039, and secure electronic disease surveillance system.

(46) "Secure electronic disease surveillance system" means the secure electronic data transmission system maintained by the department and used by local health jurisdictions to submit notifications, investigation reports, and outbreak reports under this chapter.

(47) "Sexually transmitted disease ((STD))" or "sexually transmitted infection" means a bacterial, viral, fungal, or parasitic dis-

ease or condition which is usually transmitted through sexual contact, including:

- (a) Acute pelvic inflammatory disease;
- (b) Chancroid;
- (c) *Chlamydia trachomatis* infection;
- (d) Genital and neonatal Herpes simplex;
- (e) Genital human papilloma virus infection;
- (f) Gonorrhea;
- (g) Granuloma inguinale;
- (h) Hepatitis B infection;
- (i) Human immunodeficiency virus (HIV) infection ((and acquired immunodeficiency syndrome (AIDS)));
- (j) Lymphogranuloma venereum;
- (k) Nongonococcal urethritis (NGU); and
- (l) Syphilis.

~~((41))~~ (48) "Specimen" means material associated or suspected to be associated with a notifiable condition including, but not limited to, isolates, blood, serum, stool, urine, tissue, respiratory secretions, swab, other body fluid, or an environmental sample.

~~(49)~~ "State health officer" means the person ((designated)) appointed by the secretary ((of the department)) under RCW 43.70.020 to serve as statewide health officer, or, in the absence of ((this designation, the person having primary responsibility for public health matters in the state.

~~(42)~~ "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

~~(43)~~ "Third party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction including a health care service contractor and health maintenance organization, an employee welfare benefit plan, or a state or federal health benefit program as defined in RCW 70.02.010.

~~(44)~~ "Unexplained critical illness or death" means cases of illness or death with infectious hallmarks but no known etiology, in previously healthy persons one to forty nine years of age excluding those with chronic medical conditions (e.g., malignancy, diabetes, AIDS, cirrhosis)) such appointment, the secretary.

~~((45))~~ (50) "Veterinarian" means an individual licensed and practicing under provisions of chapter 18.92 RCW((, Veterinary medicine, surgery, and dentistry)).

(51) "Zoonotic disease" means an infectious condition of animals that can cause disease when transmitted to humans.

[Statutory Authority: RCW 43.20.050. WSR 14-11-009, § 246-101-010, filed 5/8/14, effective 6/8/14; WSR 11-02-065, § 246-101-010, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-010, filed 11/22/00, effective 12/23/00.]

NEW SECTION

WAC 246-101-011 Reporting of patient ethnicity, race, and preferred language information. (1) Health care providers and health care facilities shall include the patient's ethnicity as defined in subsection (4) of this section, the patient's race as defined in sub-

section (5) of this section, and the patient's preferred language as defined in subsection (6) of this section when:

(a) Ordering a laboratory test for a notifiable condition under WAC 246-101-105 (6) (a); and

(b) Submitting a case report under WAC 246-101-115.

(2) Laboratory directors shall include the patient's ethnicity as defined in subsection (4) of this section, the patient's race as defined in subsection (5) of this section, and the patient's preferred language as defined in subsection (6) of this section when:

(a) Referring a specimen of a notifiable condition to a reference laboratory for testing under WAC 246-101-205; and

(b) Submitting a specimen to the Washington state public health laboratories under WAC 246-101-215; and

(c) Submitting a laboratory report under WAC 246-101-225.

(3) A local health officer shall include the patient's ethnicity as defined in subsection (4) of this section, the patient's race as defined in subsection (5) of this section, and the patient's preferred language as defined in subsection (6) of this section when submitting an investigation report under WAC 246-101-513.

(4) Patient's ethnicity shall be identified by the patient and reported using one of the following categories:

(a) Hispanic, Latino/a, Latinx;

(b) Non-Hispanic, Latino/a, Latinx;

(c) Patient declined to respond; or

(d) Unknown.

(5) Patient's race shall be identified by the patient and reported using one or more of the following categories; if the patient self-identifies as more than one race, each race shall be reported:

(a) Afghan;

(b) Afro-Caribbean;

(c) Alaska Native;

(d) American Indian;

(e) Arab;

(f) Asian;

(g) Asian Indian;

(h) Bamar/Burman/Burmese;

(i) Bangladeshi;

(j) Bhutanese;

(k) Black or African American;

(l) Central American;

(m) Cham;

(n) Chicano/a or Chicanx;

(o) Chinese;

(p) Congolese;

(q) Cuban;

(r) Dominican;

(s) Egyptian;

(t) Eritrean;

(u) Ethiopian;

(v) Fijian;

(w) Filipino;

(x) First Nations;

(y) Guamanian or Chamorro;

(z) Hmong/Mong;

(aa) Indigenous-Latino/a or Indigenous-Latinx;

(bb) Indonesian;

(cc) Iranian;

(dd) Iraqi;
(ee) Japanese;
(ff) Jordanian;
(gg) Karen;
(hh) Kenyan;
(ii) Khmer/Cambodian;
(jj) Korean;
(kk) Kuwaiti;
(ll) Lao;
(mm) Lebanese;
(nn) Malaysian;
(oo) Marshallese;
(pp) Mestizo;
(qq) Mexican/Mexican American;
(rr) Middle Eastern;
(ss) Mien;
(tt) Moroccan;
(uu) Native Hawaiian;
(vv) Nepalese;
(ww) North African;
(xx) Oromo;
(yy) Pacific Islander;
(zz) Pakistani;
(aaa) Puerto Rican;
(bbb) Romanian/Rumanian;
(ccc) Russian;
(ddd) Samoan;
(eee) Saudi Arabian;
(fff) Somali;
(ggg) South African;
(hhh) South American;
(iii) Syrian;
(jjj) Taiwanese;
(kkk) Thai;
(lll) Tongan;
(mmm) Ugandan;
(nnn) Ukrainian;
(ooo) Vietnamese;
(ppp) White;
(qqq) Yemeni;
(rrr) Other race;
(sss) Patient declined to respond; and
(ttt) Unknown.

(6) Patient's preferred language shall be identified by the patient and reported using one of the following categories:

(a) Amharic;
(b) Arabic;
(c) Balochi/Baluchi;
(d) Burmese;
(e) Cantonese;
(f) Chinese (unspecified);
(g) Chamorro;
(h) Chuukese;
(i) Dari;
(j) English;
(k) Farsi/Persian;
(l) Fijian;

- (m) Filipino/Pilipino;
- (n) French;
- (o) German;
- (p) Hindi;
- (q) Hmong;
- (r) Japanese;
- (s) Karen;
- (t) Khmer/Cambodian;
- (u) Kinyarwanda;
- (v) Korean;
- (w) Kosraean;
- (x) Lao;
- (y) Mandarin;
- (z) Marshallese;
- (aa) Mixteco;
- (bb) Nepali;
- (cc) Oromo;
- (dd) Panjabi/Punjabi;
- (ee) Pashto;
- (ff) Portuguese;
- (gg) Romanian/Rumanian;
- (hh) Russian;
- (ii) Samoan;
- (jj) Sign languages;
- (kk) Somali;
- (ll) Spanish/Castilian;
- (mm) Swahili/Kiswahili;
- (nn) Tagalog;
- (oo) Tamil;
- (pp) Telugu;
- (qq) Thai;
- (rr) Tigrinya;
- (ss) Ukrainian;
- (tt) Urdu;
- (uu) Vietnamese;
- (vv) Other language;
- (ww) Patient declined to respond; or
- (xx) Unknown.

[]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-015 Requests for additional information or provisional ((condition)) notification and submission of specimen. ((This section describes how conditions can become notifiable; what period of time conditions are provisionally notifiable; what analyses must be accomplished during provisional notification status; the transition from provisionally notifiable condition to permanently notifiable condition or deletion of notification requirements. The department's goal for provisionally notifiable conditions is to collect enough information to determine whether requiring notification improves public health.

~~(1) The state health officer may:~~

~~(a) Request reporting of cases and suspected cases of disease and conditions in addition to those required in Tables HC-1 of WAC 246-101-101, Lab-1 of WAC 246-101-201, and HF-1 of WAC 246-101-301 on a provisional basis for a period of time less than forty-eight months when:~~

- ~~(i) The disease or condition is newly recognized or recently acknowledged as a public health concern;~~
- ~~(ii) Epidemiological investigation based on notification of cases may contribute to understanding of the disease or condition;~~
- ~~(iii) There is reason to expect that the information acquired through notification will assist the state and/or local health department to design or implement intervention strategies that will result in an improvement in public health; and~~
- ~~(iv) Written notification is provided to all local health officers regarding:
 - ~~(A) Additional reporting requirements; and~~
 - ~~(B) Rationale or justification for specifying the disease or condition as notifiable.~~~~

~~(b) Request laboratories to submit specimens indicative of infections in addition to those required in Table Lab-1 of WAC 246-101-201 on a provisional basis for a period of time less than forty-eight months, if:~~

- ~~(i) The infection is of public health concern;~~
- ~~(ii) The department has a plan for using data gathered from the specimens; and~~
- ~~(iii) Written notification is provided to all local health officers and all laboratory directors explaining:
 - ~~(A) Actions required; and~~
 - ~~(B) Reason for the addition.~~~~

~~(2) Within forty months of the state health officer's designation of a condition as provisionally notifiable in subsection (1)(a) of this section, or requests for laboratories to submit specimens indicative of infections in subsection (1)(b) of this section, the department will conduct an evaluation for the notification requirement that:~~

- ~~(a) Estimates the societal cost resulting from the provisionally notifiable condition;
 - ~~(i) Determine the prevalence of the provisional notifiable condition; and~~
 - ~~(ii) Identify the quantifiable costs resulting from the provisionally notifiable condition; and~~
 - ~~(iii) Discuss the qualitative costs resulting from the provisionally notifiable condition.~~~~
- ~~(b) Describes how the information was used and how it will continue to be used to design and implement intervention strategies aimed at combating the provisionally notifiable condition;~~
- ~~(c) Verifies the effectiveness of previous intervention strategies at reducing the incidence, morbidity, or mortality of the provisional notifiable condition;~~
- ~~(d) Identifies the quantitative and qualitative costs of the provisional notification requirement;~~
- ~~(e) Compares the costs of the provisional notification requirement with the estimated cost savings resulting from the intervention based on the information provided through the provisional notification requirement;~~
- ~~(f) Describes the effectiveness and utility of using the notifiable conditions process as a mechanism to collect these data; and~~

~~(g) Describes that a less burdensome data collection system (example: Biennial surveys) would not provide the information needed to effectively establish and maintain the intervention strategies.~~

~~(3) Based upon the evaluation in subsection (2) of this section, the board will assess results of the evaluation after the particular condition is notifiable or the requirement for laboratories to submit specimens indicative of infections has been in place for no longer than forty months. The board will determine based upon the results of the evaluation whether the provisionally notifiable condition or the requirement for laboratories to submit specimens indicative of infections should be:~~

~~(a) Permanently notifiable in the same manner as the provisional notification requirement;~~

~~(b) Permanently notifiable in a manner that would use the evaluation results to redesign the notification requirements; or~~

~~(c) Deleted from the notifiable conditions system.~~

~~(4) The department shall have the authority to declare an emergency and institute notification requirements under the provisions of RCW 34.05.350.) (1) For notifiable conditions in this chapter, the state health officer may request additional data components to be submitted with each case report, laboratory report, specimen submittal, investigation report, outbreak report, or animal case report; submission of additional laboratory test results; and submission of additional specimens.~~

~~(2) For a condition the state health officer determines should be provisionally reported, the state health officer may request submission of case reports, laboratory reports, investigation reports, outbreak reports, and animal case reports; and submission of specimens.~~

~~(3) The state health officer may request information under subsection (1) or (2) of this section when they:~~

~~(a) Determine additional information in case reports, laboratory reports, specimen submittals, investigation reports, outbreak reports, or animal case reports, or additional submission of specimens for a notifiable condition is needed in order to properly prevent and control the condition; or~~

~~(b) Determine that provisional submission of case reports, laboratory reports, investigation reports, outbreak reports, animal case reports, or specimens for a condition other than a notifiable condition is likely to contribute to understanding the condition, provide information necessary to prevent and control the condition, and improve public health.~~

~~(4) The state health officer shall notify the board and local health officers of their request and, as applicable, health care providers, laboratory directors, health care facilities, and the department of agriculture of the request. The notification must include the:~~

~~(a) Determination required under subsection (3) of this section including documentation supporting the determination; and~~

~~(b) As applicable, the requested:~~

~~(i) Test results;~~

~~(ii) Timeline for notification;~~

~~(iii) Public health authority to be notified;~~

~~(iv) Content of notification;~~

~~(v) Means of notification;~~

~~(vi) Specimen submission;~~

~~(vii) Timeline for specimen submission; and~~

~~(viii) Specimen submittal documentation for the condition.~~

(5) Within forty months of the state health officer's designation of a provisional condition or additional information for a notifiable condition, the state health officer shall:

(a) Discontinue the request made under subsection (1) or (2) of this section; or

(b) Request that the board consider revising this chapter to make the request made under subsection (1) or (2) of this section a rule requirement, and provide an estimate of the probable benefits and probable costs.

(6) If the state health officer chooses to discontinue their request, the state health officer shall notify the board and local health officers and, as applicable, health care providers, laboratory directors, health care facilities, and the department of agriculture that the applicable provisional condition or requested additions to the notifiable condition have been discontinued.

(7) If the state health officer makes a request to the board under subsection (5)(b) of this section and the board determines that it will not revise this chapter, the state health officer's request for additional information, specimen submittal, or provisional notification under subsection (4) of this section is automatically discontinued and the board or state health officer shall provide notice to local health officers and, as applicable, health care providers, laboratory directors, health care facilities, and the department of agriculture that the applicable provisional condition or requested additions to the notifiable condition has been discontinued.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-015, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 70.24.125. WSR 05-03-055, § 246-101-015, filed 1/11/05, effective 2/11/05. Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-015, filed 11/22/00, effective 12/23/00.]

PART II: NOTIFIABLE CONDITIONS—HEALTH CARE PROVIDERS AND HEALTH CARE FACILITIES

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-101 Notifiable conditions ((and the))—Health care providers and health care facilities. ~~((This section describes the conditions that Washington's health care providers must notify public health authorities of on a statewide basis. The board finds that the conditions in Table HC-1 of this section are notifiable for the prevention and control of communicable and noninfectious diseases and conditions in Washington.~~

~~(1) Principal health care providers shall notify public health authorities of the conditions identified in Table HC-1 of this section~~

as individual case reports following the requirements in WAC 246-101-105, 246-101-110, 246-101-115, and 246-101-120.

(2) Other health care providers in attendance, other than the principal health care provider, shall notify public health authorities of the conditions identified in Table HC-1 of this section unless the condition notification has already been made.

(3) Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction.

Table HC-1 (Conditions Notifiable by Health Care Providers)

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Acquired Immunodeficiency Syndrome (AIDS)	Within 3 business days	✓	
Animal Bites (when human exposure to rabies is suspected)	Immediately	✓	
Anthrax	Immediately	✓	
Arboviral Disease (acute disease only including, but not limited to, West Nile virus, eastern and western equine encephalitis, dengue, St. Louis encephalitis, La Crosse encephalitis, Japanese encephalitis, and Powassan)	Within 3 business days	✓	
Asthma, occupational	Monthly		✓
Birth Defects - Autism Spectrum Disorders	Monthly		✓
Birth Defects - Cerebral Palsy	Monthly		✓
Birth Defects - Alcohol Related Birth Defects	Monthly		✓
Botulism (foodborne, infant, and wound)	Immediately	✓	
Brucellosis (<i>Brucella</i> species)	Within 24 hours	✓	
<i>Burkholderia mallei</i> (Glanders) and <i>pseudomallei</i> (Meliodiosis)	Immediately	✓	
Campylobacteriosis	Within 3 business days	✓	
Chancroid	Within 3 business days	✓	
<i>Chlamydia trachomatis</i> infection	Within 3 business days	✓	
Cholera	Immediately	✓	
Cryptosporidiosis	Within 3 business days	✓	
Cyclosporiasis	Within 3 business days	✓	
Diphtheria	Immediately	✓	
Disease of suspected bioterrorism origin	Immediately	✓	
Domoic acid poisoning	Immediately	✓	
<i>E. coli</i> - Refer to "Shiga toxin-producing <i>E. coli</i> "	Immediately	✓	
Emerging condition with outbreak potential	Immediately	✓	
Giardiasis	Within 3 business days	✓	
Gonorrhea	Within 3 business days	✓	
Granuloma inguinale	Within 3 business days	✓	

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
<i>Haemophilus influenzae</i> (invasive disease, children under age 5)	Immediately	√	
Hantavirus pulmonary syndrome	Within 24 hours	√	
Hepatitis A (acute infection)	Within 24 hours	√	
Hepatitis B (acute infection)	Within 24 hours	√	
Hepatitis B surface antigen + pregnant women	Within 3 business days	√	
Hepatitis B (chronic infection) – Initial diagnosis, and previously unreported prevalent cases	Monthly	√	
Hepatitis C (acute infection)	Within 3 business days	√	
Hepatitis C (chronic infection)	Monthly	√	
Hepatitis D (acute and chronic infection)	Within 3 business days	√	
Hepatitis E (acute infection)	Within 24 hours	√	
Herpes simplex, neonatal and genital (initial infection only)	Within 3 business days	√	
Human immunodeficiency virus (HIV) infection	Within 3 business days	√	
Influenza, novel or unsubtypeable strain	Immediately	√	
Influenza-associated death (lab confirmed)	Within 3 business days	√	
Legionellosis	Within 24 hours	√	
Leptospirosis	Within 24 hours	√	
Listeriosis	Within 24 hours	√	
Lyme Disease	Within 3 business days	√	
Lymphogranuloma venereum	Within 3 business days	√	
Malaria	Within 3 business days	√	
Measles (rubeola) - Acute disease only	Immediately	√	
Meningococcal disease (invasive)	Immediately	√	
Monkeypox	Immediately	√	
Mumps (acute disease only)	Within 24 hours	√	
Outbreaks of suspected foodborne origin	Immediately	√	
Outbreaks of suspected waterborne origin	Immediately	√	
Paralytic shellfish poisoning	Immediately	√	
Pertussis	Within 24 hours	√	
Pesticide poisoning (hospitalized, fatal, or cluster)	Immediately		√
Pesticide poisoning (all other)	Within 3 business days		√
Plague	Immediately	√	
Poliomyelitis	Immediately	√	
Prion disease	Within 3 business days	√	
Psittacosis	Within 24 hours	√	
Q Fever	Within 24 hours	√	

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Rabies (Confirmed Human or Animal)	Immediately	√	
Rabies, suspected human exposure (suspected human rabies exposures due to a bite from or other exposure to an animal that is suspected of being infected with rabies)	Immediately	√	
Relapsing fever (borreliosis)	Within 24 hours	√	
Rubella (including congenital rubella syndrome) (acute disease only)	Immediately	√	
Salmonellosis	Within 24 hours	√	
SARS	Immediately	√	
Serious adverse reactions to immunizations	Within 3 business days	√	
Shiga toxin-producing <i>E. coli</i> infections (enterohemorrhagic <i>E. coli</i> including, but not limited to, <i>E. coli</i> O157:H7)	Immediately	√	
Shigellosis	Within 24 hours	√	
Smallpox	Immediately	√	
Syphilis	Within 3 business days	√	
Tetanus	Within 3 business days	√	
Trichinosis	Within 3 business days	√	
Tuberculosis	Immediately	√	
Tularemia	Immediately	√	
Vaccinia transmission	Immediately	√	
Vancomycin-resistant <i>Staphylococcus aureus</i> (not to include vancomycin-intermediate)	Within 24 hours	√	
Varicella-associated death	Within 3 business days	√	
Vibriosis	Within 24 hours	√	
Viral hemorrhagic fever	Immediately	√	
Yellow fever	Immediately	√	
Yersiniosis	Within 24 hours	√	
Other rare diseases of public health significance	Within 24 hours	√	
Unexplained critical illness or death	Within 24 hours	√	

(√) Indicates which agency should receive case and suspected case reports:)

(1) For the purposes of this section:

(a) "Local health jurisdiction" means where the patient resides, or, in the event the patient's residence cannot be determined, the local health jurisdiction in which the patient received treatment.

(b) "Unexplained critical illness or death" means a severe illness or death with infectious hallmarks, but no known etiology, in a previously healthy person one to forty-nine years of age excluding those with chronic medical conditions such as malignancy, diabetes, AIDS, or cirrhosis.

(2) The conditions identified in Table HC-1 are notifiable to public health authorities under this table and this chapter.

Table HC-1 (Conditions Notifiable by Health Care Providers and Health Care Facilities)

<u>Notifiable Condition (Agent)</u>	<u>Laboratory Confirmation Required Before Submitting Case Report</u>	<u>Time Frame for Notification from Identification of a Case</u>	<u>Who Must Be Notified</u>	<u>Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)</u>
<u>Acquired immunodeficiency syndrome (AIDS)</u>		<u>Within 3 business days</u>	<u>DOH (for facilities) and LHJ (for providers)</u>	<u>Both</u>
<u>Amoebic meningitis</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Anaplasmosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Anthrax (<i>Bacillus anthracis</i> and confirmed <i>Bacillus cereus</i> biovar <i>anthracis</i> only - Do not report all <i>Bacillus cereus</i>)</u>	<u>Yes</u>	<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Arboviral disease (acute disease only) including, but not limited to:</u> <u>Chikungunya</u> <u>Dengue</u> <u>Eastern and western equine encephalitis</u> <u>Japanese encephalitis</u> <u>La Crosse encephalitis</u> <u>Powassan virus infection</u> <u>St. Louis encephalitis</u> <u>West Nile virus infection</u> <u>Zika virus infection</u> <u>See also "Yellow fever"</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Asthma, occupational</u>		<u>Within 30 days</u>	<u>Washington state department of labor and industries (L&I)</u>	<u>Both</u>
<u>Babesiosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Baylisascariasis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Birth defects - Abdominal wall defects (inclusive of gastroschisis and omphalocele)</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Facilities</u>
<u>Birth defects - Autism spectrum disorders</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Both</u>
<u>Birth defects - Cerebral palsy</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Both</u>
<u>Birth defects - Down syndrome</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Facilities</u>
<u>Birth defects - Alcohol related birth defects</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Both</u>
<u>Birth defects - Hypospadias</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Facilities</u>
<u>Birth defects - Limb reductions</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Facilities</u>
<u>Birth defects - Neural tube defects (inclusive of anencephaly and spina bifida)</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Facilities</u>
<u>Birth defects - Oral clefts (inclusive of cleft lip with/without cleft palate)</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Facilities</u>
<u>Blood lead level RST results (See WAC 246-101-200)</u>		<u>Providers and facilities performing blood lead level RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.</u>		
<u>Botulism, foodborne, infant, and wound</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>

<u>Notifiable Condition (Agent)</u>	<u>Laboratory Confirmation Required Before Submitting Case Report</u>	<u>Time Frame for Notification from Identification of a Case</u>	<u>Who Must Be Notified</u>	<u>Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)</u>
<u>Brucellosis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Campylobacteriosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Cancer (See chapter 246-102 WAC)</u>				
<u>Candida auris infection or colonization</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Carbapenem-resistant Enterobacteriaceae infections limited to:</u> <u><i>Klebsiella</i> species</u> <u><i>E. coli</i></u> <u><i>Enterobacter</i> species</u>	<u>Yes</u>	<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Chagas disease</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Chancroid</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Chlamydia trachomatis infection</u>	<u>Yes</u>	<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Cholera (<i>Vibrio cholerae</i> O1 or O139)</u>	<u>Yes</u>	<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Coccidioidomycosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Coronavirus infection (severe communicable)</u> <u>SARS-associated coronavirus</u> <u>MERS-associated coronavirus</u> <u>Novel coronavirus (COVID-19)</u>	<u>Yes</u>	<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Coronavirus infection (severe communicable)</u> <u>Novel coronavirus (COVID-19)</u> <u>RST results</u> <u>(See WAC 246-101-200)</u>		<u>Providers and facilities performing Novel coronavirus (COVID-19) RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.</u>		
<u>Cryptococcus gattii or undifferentiated Cryptococcus species (i.e., Cryptococcus not identified as C. neoformans)</u>	<u>Yes</u>	<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Cryptosporidiosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Cyclosporiasis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Cysticercosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Diphtheria</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Domoic acid poisoning</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u><i>E. coli</i> (See "Shiga toxin-producing <i>E. coli</i>")</u>				
<u>Echinococcosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Ehrlichiosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>

<u>Notifiable Condition (Agent)</u>	<u>Laboratory Confirmation Required Before Submitting Case Report</u>	<u>Time Frame for Notification from Identification of a Case</u>	<u>Who Must Be Notified</u>	<u>Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)</u>
<u>Giardiasis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Glanders (<i>Burkholderia mallei</i>)</u>	<u>Yes</u>	<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Gonorrhea</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Granuloma inguinale</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Gunshot wounds (nonfatal)</u>		<u>Within 30 days</u>	<u>DOH</u>	<u>Facilities</u>
<u><i>Haemophilus influenzae</i> (invasive disease, children under 5 years of age)</u>	<u>Yes</u>	<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Hantaviral infection</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis A (acute infection)</u>	<u>Yes</u>	<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis B (acute infection)</u>	<u>Yes</u>	<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis B, report pregnancy in hepatitis B virus infected patients (including carriers)</u>	<u>Yes</u>	<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis B (chronic infection) - Initial diagnosis, and previously unreported prevalent cases</u>	<u>Yes</u>	<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis B (perinatal) - Initial diagnosis, and previously unreported cases</u>	<u>Yes</u>	<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis C (acute infection)</u>	<u>Yes</u>	<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis C (acute infection) RST results (See WAC 246-101-200)</u>		<u>Providers and facilities performing hepatitis C (acute infection) RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.</u>		
<u>Hepatitis C (chronic infection)</u>	<u>Yes</u>	<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis C (perinatal) - Initial diagnosis, and previously unreported cases</u>	<u>Yes</u>	<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis C (chronic infection) RST results (See WAC 246-101-200)</u>		<u>Providers and facilities performing hepatitis C (chronic infection) RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.</u>		
<u>Hepatitis D (acute and chronic infection)</u>	<u>Yes</u>	<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Hepatitis E (acute infection)</u>	<u>Yes</u>	<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Herpes simplex, neonatal and genital (initial infection only)</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Providers</u>
<u>Histoplasmosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Human immunodeficiency virus (HIV) infection</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Human immunodeficiency virus (HIV) infection RST results (See WAC 246-101-200)</u>		<u>Providers and facilities performing HIV infection RST shall report as a laboratory and comply with the requirements of WAC 246-101-201 through 246-101-230.</u>		
<u>Human prion disease</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>

<u>Notifiable Condition (Agent)</u>	<u>Laboratory Confirmation Required Before Submitting Case Report</u>	<u>Time Frame for Notification from Identification of a Case</u>	<u>Who Must Be Notified</u>	<u>Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)</u>
<u>Hypersensitivity pneumonitis, occupational</u>		<u>Within 30 days</u>	<u>L&I</u>	<u>Both</u>
<u>Influenza, novel or unsubtypeable strain</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Influenza-associated death (laboratory confirmed)</u>	<u>Yes</u>	<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Legionellosis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Leptospirosis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Listeriosis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Lyme disease</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Lymphogranuloma venereum</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Malaria</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Measles (rubeola) - Acute disease only</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Melioidosis (<i>Burkholderia pseudomallei</i>)</u>	<u>Yes</u>	<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Meningococcal disease, invasive</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Monkeypox</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Mumps, acute disease only</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Outbreaks and suspected outbreaks</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Paralytic shellfish poisoning</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Pertussis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Pesticide poisoning (hospitalized, fatal, or cluster)</u>		<u>Immediately</u>	<u>DOH</u>	<u>Both</u>
<u>Pesticide poisoning (all other)</u>		<u>Within 3 business days</u>	<u>DOH</u>	<u>Both</u>
<u>Plague</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Poliomyelitis</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Pregnancy in patient with hepatitis B virus</u>		<u>See "Hepatitis B, report pregnancy in hepatitis B virus infected patients (including carriers)"</u>		
<u>Psittacosis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Q fever</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Rabies (suspect or laboratory confirmed human cases and laboratory confirmed animal cases)</u>	<u>Yes for animal cases</u>	<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Rabies, suspected human exposure (suspected human rabies exposures due to a bite from or other exposure to an animal that is suspected of being infected with rabies)</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Relapsing fever (borreliosis)</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u><i>Rickettsia</i> infection</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>

<u>Notifiable Condition (Agent)</u>	<u>Laboratory Confirmation Required Before Submitting Case Report</u>	<u>Time Frame for Notification from Identification of a Case</u>	<u>Who Must Be Notified</u>	<u>Who Must Report: Health Care Providers (Providers) or Health Care Facilities (Facilities)</u>
<u>Rubella, acute disease only (including congenital rubella syndrome)</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Salmonellosis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Serious adverse reactions to immunizations</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Shiga toxin-producing <i>E. coli</i> (STEC) infections/ enterohemorrhagic <i>E. coli</i> infections</u>	<u>Yes</u>	<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Shigellosis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Silicosis</u>		<u>Within 30 days</u>	<u>L&I</u>	<u>Both</u>
<u>Smallpox</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Syphilis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Taeniasis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Tetanus</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Tick paralysis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Trichinosis</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Tuberculosis disease (confirmed or highly suspicious, i.e., initiation of empiric treatment)</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Tularemia</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Typhus</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Vaccinia transmission</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Vancomycin-resistant <i>Staphylococcus aureus</i> (not to include vancomycin-intermediate)</u>	<u>Yes</u>	<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Varicella-associated death</u>		<u>Within 3 business days</u>	<u>LHJ</u>	<u>Both</u>
<u>Vibriosis (<i>Vibrio</i> species not including <i>Vibrio cholerae</i> O1 or O139) See Cholera (<i>Vibrio cholerae</i> O1 or O139)</u>	<u>Yes</u>	<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Viral hemorrhagic fever</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Yellow fever</u>		<u>Immediately</u>	<u>LHJ</u>	<u>Both</u>
<u>Yersiniosis</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>
<u>Unexplained critical illness or death</u>		<u>Within 24 hours</u>	<u>LHJ</u>	<u>Both</u>

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-101, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 70.24.125. WSR 05-03-055, § 246-101-101, filed 1/11/05, effective

2/11/05. Statutory Authority: RCW 43.20.050, 70.24.125 and 70.28.010.
WSR 00-23-120, § 246-101-101, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-105 Duties ((of the))—Health care providers and health care facilities. ((Health care providers shall:

~~(1) Notify the local health department where the patient resides, or, in the event that patient residence cannot be determined, the local health department in which the health care providers practice, regarding:~~

~~(a) Cases or suspected cases of notifiable conditions specified as notifiable to local health departments in Table HC-1 of WAC 246-101-101;~~

~~(b) Cases of conditions designated as notifiable by the local health officer within that health officer's jurisdiction;~~

~~(c) Outbreaks or suspected outbreaks of disease including, but not limited to, suspected or confirmed outbreaks of varicella, influenza, viral meningitis, health care-associated infection suspected due to contaminated food products or devices, or environmentally related disease;~~

~~(d) Known barriers which might impede or prevent compliance with orders for infection control or quarantine; and~~

~~(e) Name, address, and other pertinent information for any case, suspected case or carrier refusing to comply with prescribed infection control measures.~~

~~(2) Notify the department of conditions designated as notifiable to the local health department when:~~

~~(a) A local health department is closed or representatives of the local health department are unavailable at the time a case or suspected case of an immediately notifiable condition occurs;~~

~~(b) A local health department is closed or representatives of the local health department are unavailable at the time an outbreak or suspected outbreak of communicable disease occurs.~~

~~(3) Notify the department of pesticide poisoning that is fatal, causes hospitalization or occurs in a cluster.~~

~~(4) Notify the department regarding cases of notifiable conditions specified as notifiable to the department in Table HC-1 of WAC 246-101-101.~~

~~(5) Assure that positive preliminary test results and positive final test results for notifiable conditions of specimens referred to laboratories outside of Washington for testing are correctly notified to the local health department of the patient's residence or the department as specified in Table Lab-1 of WAC 246-101-201. This requirement can be satisfied by:~~

~~(a) Arranging for the referral laboratory to notify either the local health department, the department, or both; or~~

~~(b) Forwarding the notification of)~~ (1) Unless a health care facility has assumed the notification duties of the principal health care provider under subsection (4) of this section, the principal health care provider shall submit case reports:

(a) To the required public health authority under Table HC-1 of WAC 246-101-101 and the requirements of WAC 246-101-110 and 246-101-115, and this section;

(b) To the local health jurisdiction as required by the local health officer within that health officer's jurisdiction under WAC 246-101-505 (4) (d).

(2) A health care facility shall submit case reports:

(a) To the required public health authority under Table HC-1 of WAC 246-101-101 and the requirements of WAC 246-101-110 and 246-101-115, and this section that occur or are treated in their facilities.

(b) To the local health jurisdiction as required by the local health officer within that health officer's jurisdiction under WAC 246-101-505 (4) (d).

(3) This section does not require a health care provider or a health care facility to confirm the absence of cases of conditions listed in Table HC-1 of WAC 246-101-101.

(4) A health care facility may assume the notification requirements established in this chapter for a health care provider practicing within the health care facility.

(5) A health care facility shall not assume the notification requirements established in this chapter for a laboratory that is a component of the health care facility.

(6) Health care providers and health care facilities shall:

(a) Provide the laboratory with the following information for each test ordered for a notifiable condition:

(i) Patient's first and last name;

(ii) Patient's physical address including zip code;

(iii) Patient's date of birth;

(iv) Patient's sex;

(v) Patient's ethnicity, as required in WAC 246-101-011(4);

(vi) Patient's race, as required in WAC 246-101-011(5);

(vii) Patient's preferred language, as required in WAC 246-101-011(6);

(viii) For hepatitis B tests, pregnancy status (pregnant/not pregnant/unknown) of patients twelve to fifty years of age;

(ix) Patient's best contact telephone number;

(x) For blood lead level tests, medicaid status of patients less than seventy-two months of age;

(xi) Requesting health care provider's name;

(xii) Requesting health care provider's phone number;

(xiii) Address where patient received care;

(xiv) Specimen type;

(xv) Specimen collection date; and

(xvi) Condition being tested for.

(b) For specimens associated with a notifiable condition sent to a laboratory outside of Washington state, provide the laboratory with the information under (a) of this subsection, Table Lab-1 of WAC 246-101-201, 246-101-220, and 246-101-225.

If the presumptive or final test results from an out-of-state laboratory are consistent with Table Lab-1 of WAC 246-101-201, the health care provider or health care facility shall either:

(i) Confirm the laboratory submitted the laboratory report consistent with WAC 246-101-220 and 246-101-225; or

(ii) Submit the ((test result)) presumptive and final test results from the ((referral)) out-of-state laboratory ((to the local health department, the department, or both.

~~(6-))~~ with the case report according to the requirements of this chapter.

~~(c)~~ Cooperate with public health authorities during investigation of:

~~((a) Circumstances of a case or suspected))~~ (i) A case of a notifiable condition ((or other communicable disease)); and

~~((b))~~ (ii) An outbreak or suspected outbreak ((of disease)).

~~((7))~~ (d) Maintain an infection control program as described in WAC 246-320-176 for hospitals and WAC 246-330-176 for ambulatory surgical facilities;

(e) Provide adequate and understandable instruction in disease control measures to each patient who has been diagnosed with a case of a communicable disease, and to contacts who may have been exposed to the disease((-

~~(8) Maintain responsibility for deciding date of discharge for hospitalized tuberculosis patients.~~

~~(9) Notify the local health officer of intended discharge of tuberculosis patients in order to assure appropriate outpatient arrangements are arranged.~~

~~(10) By July 1, 2011, when ordering a laboratory test for a notifiable condition as identified in Table HC-1 of WAC 246-101-101, providers must provide the laboratory with the following information for each test order:~~

~~(a) Patient name;~~

~~(b) Patient address including zip code;~~

~~(c) Patient date of birth;~~

~~(d) Patient sex;~~

~~(e) Name of the principal health care provider;~~

~~(f) Telephone number of the principal health care provider;~~

~~(g) Type of test requested;~~

~~(h) Type of specimen;~~

~~(i) Date of ordering specimen collection.)); and~~

(f) Notify the local health jurisdiction of:

(i) Known barriers that might impede or prevent compliance with disease control measures; and

(ii) Name, address, and other pertinent information for any case or carrier refusing to comply with disease control measures.

(7) Health care providers and health care facilities may provide health information, demographic information, or infectious or noninfectious condition information in addition to the information required under this chapter when the provider or facility determines that the additional information will aid the public health authority in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions.

(8) When a health care provider or health care facility submits information under subsection (7) of this section, they shall submit the information under the requirements of WAC 246-101-110.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-105, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050 and 70.104.030. WSR 00-23-120, § 246-101-105, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-110 Means of notification—Health care providers and health care facilities. Health care providers (~~shall adhere to the following timelines and procedures:~~

~~(1) Conditions designated as immediately notifiable must be reported to the local health officer or the department, as specified in Table HC-1 of WAC 246-101-101, immediately as the time of diagnosis or suspected diagnosis. This applies twenty-four hours a day, seven days a week. Each local health jurisdiction, as well as the department, maintains after-hours emergency phone contacts for this purpose. A party sending a report by secure facsimile copy or secure electronic transmission during normal business hours must confirm immediate receipt by a live person.~~

~~(2) Conditions designated as notifiable within twenty-four hours must be reported to the local health officer or the department, as specified in Table HC-1 of WAC 246-101-101, within twenty-four hours of diagnosis or suspected diagnosis, seven days a week. Reports during normal public health business hours may be sent by secure electronic transmission, telephone, or secure facsimile copy of a case report. A party sending a report outside of normal public health business hours must use the after-hours emergency phone contact for the appropriate jurisdiction.~~

~~(3) Conditions designated as notifiable within three business days must be reported to the local health officer or department, as specified in Table HC-1 of WAC 246-101-101, within three business days. Notification may be sent by written case report, secure electronic transmission, telephone, or secure facsimile copy of a case report; and~~

~~(4) Conditions designated as notifiable on a monthly basis must be reported to the local health officer or the department, as specified in Table HC-1 of WAC 246-101-101, on a monthly basis. Notification may be sent by written case report, secure electronic transmission, telephone, or secure facsimile copy of a case report)) and health care facilities shall:~~

(1) Submit a case report for each case under Table HC-1 of WAC 246-101-101, 246-101-115, and this section by secure electronic data transmission;

(2) Submit a case report to the department instead of the local health jurisdiction when:

(a) The local health jurisdiction is closed or representatives of the local health jurisdiction are unavailable:

(i) For immediately notifiable conditions; or

(ii) At the time an outbreak or suspected outbreak of a communicable disease occurs.

(b) The patient who is the subject of the case report resides outside Washington state and is a visitor to Washington state;

(3) Call the public health authority designated for the condition in Table HC-1 of WAC 246-101-101 immediately and confirm receipt of a case report for conditions designated as:

(a) Immediately notifiable; or

(b) Notifiable within twenty-four hours if the case report is submitted outside of the local health jurisdiction's normal business hours.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-110, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 70.24.125, 70.28.010 and 70.104.030. WSR 00-23-120, § 246-101-110, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-115 Content of ((notifications)) case reports—
Health care providers and health care facilities. (1) ~~((For each condition listed in Table HC-1 of WAC 246-101-101,))~~ Health care providers and health care facilities shall provide the following information ~~((for))~~ in each case ((or suspected case)) report:

- (a) Patient's first and last name;
- (b) Patient's physical address including zip code;
- (c) ~~((Patient telephone number;~~
- ~~(d))~~ Patient's date of birth;
- ~~((e))~~ (d) Patient's sex;
- (e) Patient's ethnicity, as required in WAC 246-101-011(4);
- (f) Patient's race, as required in WAC 246-101-011(5);
- (g) Patient's preferred language, as required in WAC 246-101-011(6);
- (h) For hepatitis B acute or chronic infection case reports, pregnancy status (pregnant/not pregnant/unknown) of patients twelve to fifty years of age;
- (i) Patient's best contact telephone number;
- (j) Name of the principal health care provider;
- (k) Telephone number of the principal health care provider;
- (l) Address where patient received care;
- (m) Name of the person providing the report;
- (n) Telephone number of the person providing the report;
- (o) Diagnosis or suspected diagnosis of ~~((disease or))~~ the condition; and
- ~~((g))~~ (p) Pertinent laboratory ((data)) results, if available
- ~~((h) Name of the principal health care provider;~~
- ~~((i) Telephone number of the principal health care provider;~~
- ~~((j) Address of the principal health care provider;~~
- ~~((k) Name and telephone number of the person providing the report;~~

and

- ~~((l) Other information as the department may require on forms generated by the department)).~~

(2) Both the local health officer ~~((or))~~ and the state health officer may ~~((require other))~~ request additional information of epidemiological or public health value when conducting a case investigation or to otherwise prevent and control a specific notifiable condition.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-115, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 43.70.545, 70.24.125, 70.28.010 and 70.104.030. WSR 00-23-120, § 246-101-115, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-120 Handling ((of case reports and medical)) confidential information—Health care providers and health care facilities.

~~((1) All records and specimens containing or accompanied by patient identifying information are confidential.~~

~~(2) Health care providers who know of a person with a notifiable condition, other than a sexually transmitted disease, shall release identifying information only to other individuals responsible for protecting the health and well-being of the public through control of disease, including the local health department.~~

~~(3) Health care providers with knowledge of a person with sexually transmitted disease, and following the basic principles of health care providers, which respect the human dignity and confidentiality of patients:~~

~~(a) May disclose the identity of a person or release identifying information only as specified in RCW 70.24.105; and~~

~~(b) Shall under RCW 70.24.105(6), use only the following customary methods for exchange of medical information:~~

~~(i) Health care providers may exchange medical information related to HIV testing, HIV test results, and confirmed HIV or confirmed STD diagnosis and treatment in order to provide health care services to the patient. This means that information shared impacts the care or treatment decisions concerning the patient; and the health care provider requires the information for the patient's benefit.~~

~~(ii) Health care providers responsible for office management are authorized to permit access to a patient's medical information and medical record by medical staff or office staff to carry out duties required for care and treatment of a patient and the management of medical information and the patient's medical record.~~

~~(c) Health care providers)) (1) Health care providers, health care facilities, and health care facility personnel shall maintain the confidentiality of patient health care information consistent with chapter 70.02 RCW and any other applicable confidentiality laws.~~

~~(2) Health care providers and health care facilities shall:~~

~~(a) Establish and implement policies and procedures to maintain confidentiality of health care information.~~

~~(b) When conducting a clinical HIV research project ((shall)), report the identity of an individual participating in the project unless:~~

~~(i) The project has been approved by an institutional review board; and~~

~~(ii) The project has a system in place to remind referring health care providers of ((their reporting obligations)) notification requirements under this chapter.~~

~~((4) Health care providers shall establish and implement policies and procedures to maintain confidentiality related to a patient's medical information.))~~

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-120, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050 and 70.104.030. WSR 00-23-120, § 246-101-120, filed 11/22/00, effective 12/23/00.]

PART III: NOTIFIABLE CONDITIONS—LABORATORIES AND LABORATORY DIRECTORS

NEW SECTION

WAC 246-101-200 Rapid screening testing. An individual or entity including, but not limited to, health care providers and health care facilities, that conduct an RST for any of the following conditions, meets the definition of a laboratory under this chapter, and shall comply with WAC 246-101-201 through 246-101-230:

- (1) Blood lead level testing;
- (2) Hepatitis C (acute infection);
- (3) Hepatitis C (chronic infection);
- (4) HIV infection; or
- (5) Novel coronavirus (COVID-19).

[]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-201 Notifiable conditions ((and))—Laboratories.

~~((This section describes the conditions about which Washington's laboratories must notify public health authorities of on a statewide basis. The board finds that the conditions in Table Lab-1 of this section are notifiable for the prevention and control of communicable and noninfectious diseases and conditions in Washington. The board also finds that submission of specimens for many of these conditions will further prevent the spread of disease.~~

~~(1) Laboratory directors shall notify public health authorities of positive preliminary test results and positive final test results of the conditions identified in Table Lab-1 of this section as individual case reports and provide specimen submissions following the requirements in WAC 246-101-205, 246-101-210, 246-101-215, 246-101-220, 246-101-225, and 246-101-230.~~

~~(2) Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction.~~

Table Lab-1 (Conditions Notifiable by Laboratory Directors)

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Arboviruses (West Nile virus, eastern and western equine encephalitis, dengue, St. Louis encephalitis, La Crosse encephalitis, Japanese encephalitis, Powassan, California serogroup, Chikungunya)	2 business days	√		On request

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Acute: IgM positivity PCR positivity Viral isolation				
<i>Bacillus anthracis</i> (Anthrax)	Immediately	√		Culture (2-business days)
Blood Lead Level	Elevated Levels- 2-business days Nonelevated Levels- Monthly		√	
<i>Bordetella pertussis</i> (Pertussis)	Within 24 hours	√		Culture, when available (2-business days)
<i>Borrelia burgdorferi</i> (Lyme disease)	2-business days	√		On request
<i>Borrelia hermsii</i> or <i>recurrentis</i> (Relapsing fever, tick- or louse-borne)	Within 24 hours	√		On request
<i>Brucella</i> species (Brucellosis)	Within 24 hours	√		Cultures (2-business days)
<i>Burkholderia mallei</i> and <i>pseudomallei</i>	Immediately	√		Culture (2-business days); additional specimens when available
<i>Campylobacter</i> species (Campylobacteriosis)	2-business days	√		On request
CD4 + (T4) lymphocyte counts and/or CD4 + (T4) (patients aged thirteen or older)	Monthly	Only when the local health department is designated by the Department of Health	√ (Except King County)	
<i>Chlamydomphila psittaci</i> (Psittacosis)	Within 24 hours	√		On request
<i>Chlamydia trachomatis</i>	2-business days	√		
<i>Clostridium botulinum</i> (Botulism)	Immediately	√		Serum and/or stool; any other specimens available (i.e., foods submitted for suspected foodborne ease; debrided tissue submitted for suspected wound botulism) (2-business days)
<i>Corynebacterium diphtheriae</i> (Diphtheria)	Immediately	√		Culture (2-business days)
<i>Coxiella burnetii</i> (Q fever)	Within 24 hours	√		Culture (2-business days)
<i>Cryptococcus non v. neoformans</i>	N/A	N/A		Culture (2-business days) or other specimens upon request
<i>Cryptosporidium</i> (Cryptosporidiosis)	2-business days	√		On request

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
<i>Cyclospora cayentanensis</i> (Cyclosporiasis)	2 business days	√		Specimen (2 business days)
<i>E. coli</i> - Refer to "Shiga toxin-producing <i>E. coli</i> "	Immediately	√		
<i>Francisella tularensis</i> (Tularemia)	Immediately	√		Culture or other appropriate clinical material (2 business days)
<i>Giardia lamblia</i> (Giardiasis)	2 business days	√		On request
<i>Haemophilus influenzae</i> (children < 5 years of age)	Immediately	√		Culture, from sterile sites only, when type is unknown (2 business days)
Hantavirus	Within 24 hours	√		On request
Hepatitis A virus (acute) by IgM positivity (Hepatocellular enzyme levels to accompany report)	Within 24 hours	√		On request
Hepatitis B virus (acute) by IgM positivity	Within 24 hours	√		On request
Hepatitis B virus -HBsAg (Surface antigen) -HBeAg (E antigen) -HBV DNA	Monthly	√		
Hepatitis C virus	Monthly	√		
Hepatitis D virus	2 business days	√		On request
Hepatitis E virus	Within 24 hours	√		On request
Human immunodeficiency virus (HIV) infection (for example, positive Western Blot assays, P24 antigen or viral culture tests)	2 business days	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Human immunodeficiency virus (HIV) infection (II viral load detection test results - detectable and undetectable)	Monthly	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Influenza virus, novel or unsubtypeable strain	Immediately	√		Isolate or clinical specimen (2 business days)
<i>Legionella</i> species (Legionellosis)	Within 24 hours	√		Culture (2 business days)
<i>Leptospira</i> species (Leptospirosis)	Within 24 hours	√		On request
<i>Listeria monocytogenes</i> (Listeriosis)	Within 24 hours	√		Culture (2 business days)
Measles virus (rubeola) Acute: IgM positivity PCR positivity	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Mumps virus Acute: IgM positivity PCR positivity	Within 24 hours	√		Isolate or clinical specimen associated with positive result (2 business days)
<i>Mycobacterium tuberculosis</i> (Tuberculosis)	2 business days		√	Culture (2 business days)
<i>Mycobacterium tuberculosis</i> (Tuberculosis) (Antibiotic sensitivity for first isolates)	2 business days		√	
<i>Neisseria gonorrhoeae</i> (Gonorrhea)	2 business days	√		
<i>Neisseria meningitidis</i> (Meningococcal disease)	Immediately	√		Culture (from sterile sites only) (2 business days)
<i>Plasmodium</i> species (Malaria)	2 business days	√		On request
Poliovirus Acute: IgM positivity PCR positivity	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)
Rabies virus (human or animal)	Immediately	√ (Pathology Report Only)		Clinical specimen associated with positive result (2 business days)
<i>Salmonella</i> species (Salmonellosis)	Within 24 hours	√		Culture (2 business days)
SARS-associated coronavirus	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)
Shiga toxin-producing <i>E. coli</i> (enterohemorrhagic <i>E. coli</i> including, but not limited to, <i>E. coli</i> O157:H7)	Immediately	√		Culture (2 business days) or specimen if no culture is available
<i>Shigella</i> species (Shigellosis)	Within 24 hours	√		Culture (2 business days)
<i>Treponema pallidum</i> (Syphilis)	2 business days	√		Serum (2 business days)
<i>Trichinella</i> species	2 business days	√		On request
Vancomycin-resistant <i>Staphylococcus aureus</i>	Within 24 hours	√		Culture (2 business days)
Variola virus (smallpox)	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)
<i>Vibrio cholerae</i> O1 or O139 (Cholera)	Immediately	√		Culture (2 business days)
<i>Vibrio</i> species (Vibriosis)	Within 24 hours	√		Culture (2 business days)
Viral hemorrhagic fever: Arenaviruses Bunyaviruses Filoviruses Flaviviruses	Immediately	√		Isolate or clinical specimen associated with positive result (2 business days)

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Yellow fever virus	Immediately	√		Serum (2 business days)
<i>Yersinia enterocolitica</i> or <i>pseudotuberculosis</i>	Within 24 hours	√		On request
<i>Yersinia pestis</i> (Plague)	Immediately	√		Culture or other appropriate clinical material (2 business days)

(√) Indicates which agency should receive case and suspected case reports.

(3) The local health department may request laboratory reporting of additional test results pertinent to an investigation of a notifiable condition (e.g., hepatocellular enzyme levels for hepatitis or negative stool test results on salmonellosis rescreening).

(4) Laboratory directors may notify the local health department, the department, or both of other laboratory results.) (1) For the purposes of Table Lab-1:

(a) "At least annually" means deidentified negative screening results may be submitted in a single report no less than once per year, but may be submitted more frequently as a single report or as individual screening results.

(b) "Deidentified negative screening result" means an initial test result that indicates the absence of disease, and that has personally identifiable information removed from it using the Health Insurance Portability and Accountability Act of 1996 Safe Harbor method defined in 45 C.F.R. 164.514. A deidentified negative screening result does not include a negative test result associated with a previous positive test result, such as a negative nucleic acid or viral load test that is performed after a positive antibody or antigen test.

(c) "LHJ" means where the patient resides, or, in the event that patient residence cannot be determined, the local health jurisdiction in which the ordering health care provider practices, or the local health jurisdiction in which the laboratory operates.

(d) "Within two business days" means specimens must be in transit to the Washington state public health laboratories within two business days of:

(i) Completing a test and the specimen being ready for packaging; or

(ii) Receiving a request from a local health jurisdiction or the department, provided the specimen is still available at the time of the request.

(2) This chapter does not require a laboratory to:

(a) Test for agents (conditions) or speculate if the laboratory does not perform the test as part of its normal work. A laboratory director shall only report a condition if it is identified as part of their normal testing protocols; or

(b) Retain specimens indefinitely in anticipation of a request from a local health jurisdiction or the department.

(3) The agents (conditions) in Table Lab-1 are notifiable by a laboratory director as indicated in Table Lab-1 and this chapter.

Table Lab-1 (Conditions Notifiable by Laboratory Directors)

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
<u>Amoebic meningitis</u>	Positive result by any method	Immediately to LHJ	Specimen associated with positive result, if available	Within 2 business days
<u>Anaplasma species (Anaplasmosis)</u>	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result, if available	Within 2 business days of request by LHJ or DOH
<u>Babesia species (Babesiosis)</u>	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result, if available	Within 2 business days of request by LHJ or DOH
<u>Bacillus anthracis (Anthrax)</u>	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
<u>Bacillus cereus, biovar anthracis only</u>	Confirmed positive result by any method	Immediately to LHJ	Do not ship specimen	Do not ship specimen
<u>Baylisascaris (Baylisascariasis)</u>	Positive result by any method	Within 24 hours to LHJ	Specimen associated with positive result, if available	Within 2 business days
<u>Blood lead level</u>	Results equal to or greater than 5 micrograms per deciliter for: RST Venous	Within 2 business days to DOH	N/A	N/A
	Results less than 5 micrograms per deciliter for: RST Venous	Within 30 days to DOH		
<u>Bordetella pertussis (Pertussis)</u>	Positive results by: Culture or Nucleic acid detection ((nucleic acid testing (NAT)) or (nucleic acid amplification testing (NAAT))	Within 24 hours to LHJ	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>Borrelia burgdorferi or Borrelia mayonii (Lyme disease)</u>	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>Borrelia hermsii, parkeri, turicatae, miyamotoi, or recurrentis (Relapsing fever, tick- or louse-borne)</u>	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>Brucella species (Brucellosis)</u>	Positive result by any method excluding Immunoglobulin G (IgG)	Within 24 hours to LHJ	Isolate, excluding confirmed positive <i>B. melitensis</i> , <i>B. abortus</i> , or <i>B. suis</i>	Within 2 business days

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
			If no isolate available, specimen associated with positive result	
<i>Burkholderia mallei</i> (Glanders)	Positive result by any method excluding IgG	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
<i>Burkholderia pseudomallei</i> (Melioidosis)	Positive result by any method excluding IgG	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
California serogroup viruses, acute (Arbovirus)	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<i>Campylobacter</i> species (Campylobacteriosis)	Positive result by: Culture, Nucleic acid detection (NAT or NAAT), or Antigen detection	Within 2 business days to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<i>Candida auris</i>	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
<p><u>Carbapenem-resistant Enterobacteriaceae:</u> <i>Klebsiella</i> species <i>E. coli</i> <i>Enterobacter</i> species</p>	<p>Positive for known carbapenemase resistance gene (including, but not limited to, KPC, NDM, VIM, IMP, OXA-48) demonstrated by nucleic acid detection (NAT or NAAT), or whole genome sequencing</p> <p>Positive on a phenotypic test for carbapenemase production including, but not limited to, Metallo-B-lactamase test, modified Hodge test (MHT) (for <i>E. coli</i> and <i>Klebsiella</i> species only), CarbaNP, Carbapenem Inactivation Method (CIM) or modified CIM (mCIM)</p> <p>Resistant to any carbapenem including, but not limited to, doripenem, ertapenem, imipenem or meropenem</p>	<p>Within 2 business days to LHJ</p>	<p>Isolate</p> <p>If no isolate available, specimen associated with positive result</p>	<p>Within 2 business days</p>
<p>CD4 + counts¹, or CD4 + percents², or both (patients aged thirteen or older)</p>	<p>All results</p>	<p>Within 30 days to DOH except in King County where this is notifiable to the LHJ</p>	<p>N/A</p>	<p>N/A</p>
<p>Chikungunya virus, acute (Arbovirus)</p>	<p>Positive result by any method excluding Immunoglobulin G (IgG)</p>	<p>Within 2 business days to LHJ</p>	<p>Specimen associated with positive result</p>	<p>Within 2 business days of request by LHJ or DOH</p>
<p><i>Chlamydia psittaci</i> (Psittacosis)</p>	<p>Positive result by any method excluding IgG</p>	<p>Within 24 hours to LHJ</p>	<p>Specimen associated with positive result</p>	<p>Within 2 business days of request by LHJ or DOH</p>
<p><i>Chlamydia trachomatis</i></p>	<p>Positive and indeterminate result by any method</p>	<p>Within 2 business days to LHJ</p>	<p>N/A</p>	<p>N/A</p>
<p><i>Chlamydia trachomatis</i></p>	<p>Deidentified negative screening result</p>	<p>At least annually to DOH</p>	<p>N/A</p>	<p>N/A</p>
<p><i>Clostridium botulinum</i> (Botulism)</p>	<p>Positive result by any method</p>	<p>Immediately to LHJ</p>	<p>Presumptive positive isolate</p>	<p>Within 2 business days</p>

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
			If no isolate available, specimen associated with presumptive positive result	
<u>Coccidioides</u> (Coccidioidomycosis)	Positive result by any method	Within 2 business days to LHJ	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
Coronavirus <u>SARS-associated coronavirus</u> <u>MERS-associated coronavirus</u> <u>Novel coronavirus (SARS-CoV-2)</u>	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days of request by LHJ or DOH
<u>Corynebacterium diphtheriae</u> (Diphtheria)	Positive result by: Culture or Nucleic acid detection (NAT or NAAT)	Immediately to LHJ	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>Coxiella burnetii</u> (Q fever)	Positive result by any method	Within 24 hours LHJ	Specimen associated with presumptive positive result	Within 2 business days
<u>Crimean-Congo hemorrhagic fever virus (Viral hemorrhagic fever)</u>	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
<u>Cryptococcus gattii</u> or undifferentiated <u>Cryptococcus</u> species (i.e., <u>Cryptococcus</u> not identified as <u>C. neoformans</u>)	Positive results by any method excluding cryptococcal antigen	Within 2 business days to LHJ	Isolate If no isolate available, specimen associated with positive result (excluding serum)	Within 2 business days
			Serum	Within 2 business days of request by LHJ or DOH
<u>Cryptosporidium</u> (Cryptosporidiosis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>Cyclospora cayentanensis</u> (Cyclosporiasis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>Dengue virus, acute (Arbovirus)</u>	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>E. coli</u> - Refer to "Shiga toxin-producing <u>E. coli</u> "				

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
<u>Eastern and western equine encephalitis virus, acute (Arbovirus)</u>	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result excluding specimens from viral culture	Within 2 business days of request by LHJ or DOH
<u>Ebola virus (Viral hemorrhagic fever)</u>	Positive result by any method	Immediately to LHJ	Presumptive positive specimen	Within 2 business days
<u><i>Echinococcus granulosus</i> or <i>E. multilocularis</i> (Echinococcosis)</u>	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u><i>Ehrlichia</i> species (Ehrlichiosis)</u>	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u><i>Francisella tularensis</i> (Tularemia)</u>	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
<u><i>Giardia duodenalis</i>, <i>G. lamblia</i>, <i>G. intestinalis</i> (Giardiasis)</u>	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>Guanarito virus (Viral hemorrhagic fever)</u>	Positive result by any method	Immediately to LHJ	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
<u><i>Haemophilus influenzae</i> (children < 5 years of age)</u>	Positive result for specimen from a normally sterile site by: Culture or Nucleic acid detection (NAT or NAAT)	Immediately to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
<u>Hantavirus including, but not limited to: Andes virus Bayou virus Black Creek Canal virus Dobrava-Belgrade virus Hantaan virus Seoul virus Sin nombre virus</u>	Positive result by any method	Within 24 hours to LHJ	Specimen associated with positive result	Within 2 business days

<u>Agent (Condition)</u>	<u>Notification of Results</u>		<u>Specimen Submission to the Washington State Public Health Laboratories</u>	
	<u>What to Submit in a Laboratory Report</u>	<u>When and Whom to Notify Upon Receiving Presumptive or Final Test Result</u>	<u>What to Submit</u>	<u>When to Submit</u>
<u>Hepatitis A virus</u>	<p>Positive results for: <u>IgM or Nucleic acid detection (NAT or NAAT)</u> <u>Hepatocellular enzyme levels to accompany report, if available, for positive IgM results</u></p>	<p><u>Within 24 hours to LHJ</u></p>	<p><u>Specimen associated with positive result</u></p>	<p><u>Within 2 business days of request by LHJ or DOH</u></p>
<u>Hepatitis B virus</u>	<p>Positive results for: <u>IgM anti-HBc, HBsAg, HBeAg, or HBV Nucleic acid detection (NAT or NAAT) either qualitative or quantitative, for example PCR or genotyping</u> <u>If associated with a positive result listed above, and available: Hepatocellular enzyme levels, Pregnancy status, and Negative IgM anti-HBc result</u></p>	<p><u>Within 24 hours to LHJ</u></p>	<p><u>Specimen associated with positive result</u></p>	<p><u>Within 2 business days of request by LHJ or DOH</u></p>
<u>Hepatitis C virus</u>	<p>Positive result by any method <u>Positive and nonpositive results for: HCV nucleic acid detection (NAT or NAAT) for qualitative, quantitative, and genotype tests</u> <u>If associated with a positive result and available: Hepatocellular enzyme levels, Pregnancy status, Negative result for IgM anti-HAV, and Negative result for IgM anti-HBc</u></p>	<p><u>Within 2 business days to LHJ</u></p>	<p><u>Specimen associated with positive result</u></p>	<p><u>Within 2 business days of request by LHJ or DOH</u></p>
<u>Hepatitis C virus</u>	<p><u>Deidentified negative screening result</u></p>	<p><u>At least annually to DOH</u></p>	<p><u>N/A</u></p>	<p><u>N/A</u></p>

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
<u>Hepatitis D virus</u>	Positive result by any method If associated with a positive result and available: <u>Hepatocellular enzyme levels</u>	<u>Within 24 hours to LHJ</u>	<u>Specimen associated with positive result</u>	<u>Within 2 business days of request by LHJ or DOH</u>
<u>Hepatitis E virus</u>	Positive result by any method If associated with a positive result and available: <u>Hepatocellular enzyme levels</u>	<u>Within 24 hours to LHJ</u>	<u>Specimen associated with positive result</u>	<u>Within 2 business days of request by LHJ or DOH</u>
<u><i>Histoplasma capsulatum</i> (histoplasmosis)</u>	Positive result by any method	<u>Within 2 business days to LHJ</u>	<u>Isolate</u>	<u>Within 2 business days</u>
			<u>Serum</u>	<u>Within 2 business days of request by LHJ or DOH</u>
<u>Human immunodeficiency virus (HIV)</u>	Positive and indeterminate results and subsequent negative results associated with those positive or indeterminate results for the tests below: <u>Antibody detection tests (including RST),</u> <u>Antigen detection tests (including RST),</u> or <u>Viral culture</u> <u>All HIV nucleic acid detection (NAT or NAAT) tests:</u> <u>Qualitative and quantitative</u> <u>Detectable and undetectable</u> <u>HIV antiviral resistance testing genetic sequences</u>	<u>Within 2 business days to DOH except in King County where this is notifiable to the LHJ</u>	<u>N/A</u>	<u>N/A</u>
<u>Human immunodeficiency virus (HIV)</u>	<u>Deidentified negative screening result</u>	<u>At least annually to DOH</u>	<u>N/A</u>	<u>N/A</u>
<u>Human prion disease</u>	Positive result by any method excluding <u>Tau protein</u>	<u>Within 2 business days to LHJ</u>	<u>Specimen associated with positive result</u>	<u>Within 2 business days of request by LHJ or DOH</u>
<u>Influenza virus, novel or unsubtypeable strain</u>	Positive novel and unsubtypeable result	<u>Immediately to LHJ</u>	<u>Isolate</u> <u>If no isolate available, specimen associated with positive result</u>	<u>Within 2 business days</u>

<u>Agent (Condition)</u>	<u>Notification of Results</u>		<u>Specimen Submission to the Washington State Public Health Laboratories</u>	
	<u>What to Submit in a Laboratory Report</u>	<u>When and Whom to Notify Upon Receiving Presumptive or Final Test Result</u>	<u>What to Submit</u>	<u>When to Submit</u>
<u>Japanese encephalitis virus, acute (Arbovirus)</u>	<u>Positive result by any method excluding IgG</u>	<u>Within 2 business days to LHJ</u>	<u>Specimen associated with positive result</u>	<u>Within 2 business days of request by LHJ or DOH</u>
<u>Junin virus (Viral hemorrhagic fever)</u>	<u>Positive result by any method</u>	<u>Immediately to LHJ</u>	<u>Presumptive positive isolate</u> <u>If no isolate available, specimen associated with presumptive positive result</u>	<u>Within 2 business days</u>
<u>La Crosse encephalitis virus, acute (Arbovirus)</u>	<u>Positive result by any method excluding IgG</u>	<u>Within 2 business days to LHJ</u>	<u>Specimen associated with positive result</u>	<u>Within 2 business days of request by LHJ or DOH</u>
<u>Lassa virus (Viral hemorrhagic fever)</u>	<u>Positive result by any method</u>	<u>Immediately to LHJ</u>	<u>Presumptive positive isolate</u> <u>If no isolate available, specimen associated with presumptive positive result</u>	<u>Within 2 business days</u>
<u>Legionella species (Legionellosis)</u>	<u>Positive result by any method</u>	<u>Within 24 hours to LHJ</u>	<u>Isolate</u> <u>If no isolate available but respiratory specimen available and associated with a positive test (as in the case of a PCR positive), respiratory specimen associated with positive result</u>	<u>Within 2 business days</u>
<u>Leptospira species (Leptospirosis)</u>	<u>Positive result by any method</u>	<u>Within 24 hours to LHJ</u>	<u>Isolate</u> <u>If no isolate available, specimen associated with positive result</u>	<u>Within 2 business days of request by LHJ or DOH</u>
<u>Listeria monocytogenes (Listeriosis)</u>	<u>Positive result for specimen from a normally sterile site by:</u> <u>Culture or Nucleic acid detection (NAT or NAAT)</u>	<u>Within 24 hours to LHJ</u>	<u>Isolate</u> <u>If no isolate available, specimen associated with positive result</u>	<u>Within 2 business days</u>
<u>Lujo virus (Viral hemorrhagic fever)</u>	<u>Positive result by any method</u>	<u>Immediately to LHJ</u>	<u>Presumptive positive isolate</u> <u>If no isolate available, specimen associated with presumptive positive result</u>	<u>Within 2 business days</u>
<u>Machupo virus (Viral hemorrhagic fever)</u>	<u>Positive result by any method</u>	<u>Immediately to LHJ</u>	<u>Presumptive positive isolate</u> <u>If no isolate available, specimen associated with presumptive positive result</u>	<u>Within 2 business days</u>

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
<u>Marburg virus (Viral hemorrhagic fever)</u>	Positive result by any method	Immediately to LHI	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
<u>Measles virus - See "Rubeola (measles virus)"</u>				
<u>Mumps virus</u>	Positive result for: Culture, Nucleic acid detection (NAT or NAAT), or IgM	Within 24 hours to LHI	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
			Specimen associated with positive IgM	Within 2 business days of request by LHI or DOH
<u>Mycobacterium tuberculosis complex (Tuberculosis)</u>	Positive result for: Culture Nucleic acid detection (NAT or NAAT) Drug susceptibilities (molecular and culture based)	Within 2 business days to DOH	Mycobacterium tuberculosis complex positive isolate (earliest available isolate for the patient)	Within 2 business days
<u>Neisseria gonorrhoeae (Gonorrhea)</u>	Positive and indeterminate result by any method	Within 2 business days to LHI	N/A	N/A
<u>Neisseria gonorrhoeae (Gonorrhea)</u>	Deidentified negative screening result	At least annually to DOH	N/A	N/A
<u>Neisseria meningitidis (Meningococcal disease)</u>	Positive result for specimen from a normally sterile site by any method	Immediately to LHI	Isolate from a normally sterile site If no isolate available, specimen associated with positive result	Within 2 business days Within 2 business days of request by LHI or DOH
<u>Plasmodium species (Malaria)</u>	Positive results for: Nucleic acid detection (NAT or NAAT), Malaria-specific antigens by rapid diagnostic test, PCR, or Microscopy (thick or thin smear)	Within 2 business days to LHI	Specimen associated with positive result	Within 2 business days of request by LHI or DOH
<u>Poliovirus (Poliomyelitis)</u>	IgM positivity; PCR positivity	Immediately to LHI	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
<u>Powassan virus, acute (Arbovirus)</u>	Positive result by any method excluding IgG	Within 2 business days to LHI	Specimen associated with positive result	Within 2 business days of request by LHI or DOH

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
<u>Rabies virus</u>	Positive result by any method	Immediately to LHI	Specimen associated with positive result	Within 2 business days
<u>Rickettsia species including, but not limited to:</u> <u><i>Rickettsia rickettsii</i></u> <u><i>Rickettsia africae</i></u> <u><i>Rickettsia conorii</i></u> <u><i>Rickettsia typhi</i></u> <u><i>Rickettsia parkeri</i></u> <u><i>Rickettsia philipii</i></u>	Positive results by any method	Within 2 business days to LHI	Specimen associated with positive result	Within 2 business days of request by LHI or DOH
<u>Rubella</u>	Positive result by: Culture, IgM, or Nucleic acid detection (NAT or NAAT)	Immediately to LHI	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	
			Other specimen	Within 2 business days of request by LHI or DOH
<u>Rubeola (measles virus)</u>	Positive result by: Culture, IgM, or Nucleic acid detection (NAT or NAAT)	Immediately to LHI	Isolate and specimen associated with positive culture	Within 2 business days
			Isolate and specimen association with positive NAT or NAAT result	
			Specimen associated with positive IgM	Within 2 business days of request by LHI or DOH
			Other specimen	
<u>Sabia virus (Viral hemorrhagic fever)</u>	Positive result by any method	Immediately to LHI	Presumptive positive isolate	Within 2 business days
			If no isolate available, specimen associated with presumptive positive result	
<u>Salmonella species (Salmonellosis, typhoid fever)</u>	Positive result by any method	Within 24 hours to LHI	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	
<u>Shiga toxin-producing <i>E. coli</i>/ enterohemorrhagic <i>E. coli</i> (STEC)</u>	Positive result by any method	Immediately to LHI	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	
<u>Shigella species (Shigellosis)</u>	Positive result by any method	Within 24 hours to LHI	Isolate	Within 2 business days
			If no isolate available, specimen associated with positive result	
<u>St. Louis encephalitis virus, acute (Arbovirus)</u>	Positive result by any method excluding IgG	Within 2 business days to LHI	Specimen associated with positive result	Within 2 business days of request by LHI or DOH

Agent (Condition)	Notification of Results		Specimen Submission to the Washington State Public Health Laboratories	
	What to Submit in a Laboratory Report	When and Whom to Notify Upon Receiving Presumptive or Final Test Result	What to Submit	When to Submit
<u><i>Taenia solium</i></u> (Taeniasis or Cysticercosis)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u><i>Treponema pallidum</i></u> (Syphilis)	Positive and indeterminate result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days
<u><i>Treponema pallidum</i></u> (Syphilis)	Deidentified negative screening result	At least annually to DOH	N/A	N/A
<u><i>Trichinella</i> species</u> (Trichinellosis)	Positive serologic test for <i>Trichinella</i>	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u><i>Trypanosoma cruzi</i></u> (Chagas disease)	Positive result by any method	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days
<u>Vaccinia</u>	Any request for testing associated with a suspect case	Immediately to LHJ	Any specimen collected from a suspect case	Immediately
<u>Vancomycin-resistant <i>Staphylococcus aureus</i></u>	Resistance to vancomycin	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
<u>Variola virus (smallpox)</u>	Any request for testing associated with a suspect case	Immediately to LHJ	Specimen collected from a suspect case	Immediately
<u><i>Vibrio cholerae</i> O1 or O139 (Cholera)</u>	Positive result by any method	Immediately to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
<u><i>Vibrio</i> species (Vibriosis) not including <i>Vibrio cholerae</i> O1 or O139 (Cholera) See "<i>Vibrio cholerae</i> O1 or O139 (Cholera)"</u>	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days
<u>West Nile virus, acute (Arbovirus)</u>	Positive result by any method excluding IgG	Within 2 business days to LHJ	Specimen associated with positive result	Within 2 business days of request by LHJ or DOH
<u>Yellow fever virus (Arbovirus)</u>	Positive result by any method excluding IgG	Immediately to LHJ	Specimen associated with positive result	Within 2 business days
<u><i>Yersinia enterocolitica</i>, <i>Y. pseudotuberculosis</i>, <i>Y. intermedia</i>, <i>Y. fredericksonii</i>, or <i>Y. kristensenii</i> (Yersiniosis)</u>	Positive result by any method	Within 24 hours to LHJ	Isolate If no isolate available, specimen associated with positive result	Within 2 business days of request by LHJ or DOH

<u>Agent (Condition)</u>	<u>Notification of Results</u>		<u>Specimen Submission to the Washington State Public Health Laboratories</u>	
	<u>What to Submit in a Laboratory Report</u>	<u>When and Whom to Notify Upon Receiving Presumptive or Final Test Result</u>	<u>What to Submit</u>	<u>When to Submit</u>
<u><i>Yersinia pestis</i> (Plague)</u>	Positive result by any method	Immediately to LHH	Presumptive positive isolate If no isolate available, specimen associated with presumptive positive result	Within 2 business days
<u>Zika virus, acute (Arbovirus)</u>	Positive result by any method excluding IgG	Within 2 business days to LHH	Specimen associated with positive result	Within 2 business days of request by LHH or DOH

¹ "CD4 + counts" means CD4 + (T4) lymphocyte counts.
² "CD4 + percents" means CD4 + (T4) percents of total lymphocytes.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-201, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 70.24.125. WSR 06-16-117, § 246-101-201, filed 8/1/06, effective 9/1/06. Statutory Authority: RCW 43.20.050, 70.24.125. WSR 05-03-055, § 246-101-201, filed 1/11/05, effective 2/11/05. Statutory Authority: RCW 43.20.050, 70.24.125 and 70.28.010. WSR 00-23-120, § 246-101-201, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

**WAC 246-101-205 ((Responsibilities and) Duties ((of the))—
Laboratory directors.** (1) A laboratory director((s)) shall:

(a) ((Notify the local health department where the patient resides, or, in the event that patient residence cannot be determined, the local health department in which the ordering health care provider practices, or the local health department in which the laboratory operates, regarding:

(i) Positive preliminary test results and positive final test results of notifiable conditions specified as notifiable to the local health department in Table Lab-1.

(ii) Positive preliminary test results and positive final test results of conditions specified as notifiable by the local health officer within that health officer's jurisdiction.)) Submit laboratory reports:

(i) To the local health jurisdiction or the department as required in Table Lab-1 of WAC 246-101-201, and under the requirements of WAC 246-101-220, 246-101-225, and this section; and

(ii) To the local health jurisdiction as required by the local health officer within that health officer's jurisdiction under WAC 246-101-505 (4) (d).

(b) Notify the department of conditions designated as notifiable to the local health ((department)) jurisdiction when:

(i) A local health ((department)) jurisdiction is closed or representatives of the local health ((department)) jurisdiction are unavailable at the time a ((positive preliminary test result or posi-

tive)) presumptive or final test result of an immediately notifiable condition occurs; or

(ii) ~~((A local health department is closed or representatives of the local health department are unavailable at the time an outbreak or suspected outbreak of communicable disease occurs.~~

~~(c) Notify the department of positive preliminary test results or positive final test results for conditions designated notifiable to the department in Table Lab-1.~~

~~(d) Notify the department of nonelevated blood lead levels on a monthly basis.~~

~~(e) Submit specimens for conditions noted in Table Lab-1 to the Washington state public health laboratories or other laboratory designated by the state health officer for diagnosis, confirmation, storage, or further testing.~~

~~(f) Ensure that positive preliminary test results and positive final test results for notifiable conditions of specimens referred to other laboratories for testing are correctly notified to the correct local health department or the department. This requirement can be satisfied by:~~

~~(i) Arranging for the referral laboratory to notify either the local health department, the department, or both; or~~

~~(ii) Forwarding the notification of the test result from the referral laboratory to the local health department, the department, or both.~~

~~(g)) The notifiable test result pertains to a patient who resides outside of and is visiting Washington state as indicated by information provided by the requesting health care provider or health care facility.~~

~~(c) Submit specimens required in Table Lab-1 of WAC 246-101-201 under the requirements of WAC 246-101-210 and 246-101-215, and this section;~~

~~(d) Cooperate with public health authorities during investigation of:~~

~~(i) The circumstances of a case ((or suspected case)) of a notifiable condition ((or other communicable disease)); ((and)) or~~

~~(ii) An outbreak or suspected outbreak of disease.~~

~~(2) A laboratory director((s)) may designate responsibility for working and cooperating with public health authorities to certain employees as long as designated employees are:~~

~~(a) Readily available; and~~

~~(b) Able to provide requested information in a timely manner.~~

~~(3) ((By July 1, 2011, when referring)) A laboratory director may refer a specimen of a notifiable condition to a reference laboratory for testing.~~

~~(4) When a laboratory director refers a specimen ((to another)) of a notifiable condition to a reference laboratory for ((a test for a notifiable condition)) testing, the laboratory director((s)) shall:~~

~~(a) Provide the reference laboratory with Table Lab-1 of WAC 246-101-201, 246-101-220, 246-101-225, and this section; and the following information for each ((test referral)) specimen:~~

~~((a) Patient name;~~

~~(b) Full address of patient, or patient zip code at a minimum, when available in laboratory database;~~

~~(c) Date of birth or age of patient, when available in laboratory database;~~

~~(d) Sex of patient, when available in laboratory database;~~

~~(e) Name of the principal health care provider;~~

- ~~(f) Telephone number of the principal health care provider;~~
~~(g) Address of the principal health care provider, when available;~~
~~(h) Type of test requested;~~
~~(i) Type of specimen; and~~
~~(j) Date of specimen collection.~~
- ~~(4) By January 1, 2013, laboratory databases must have the ability to receive, store, and retrieve all of the data elements specified in subsection (3) (a) through (j) of this section.)~~
- (i) Patient's first and last name;
(ii) Patient's physical address including zip code;
(iii) Patient's date of birth;
(iv) Patient's sex;
(v) Patient's ethnicity, as required in WAC 246-101-011(4);
(vi) Patient's race, as required in WAC 246-101-011(5);
(vii) Patient's preferred language, as required in WAC 246-101-011(6);
(viii) For hepatitis B virus tests, pregnancy status (pregnant, not pregnant, or unknown) of patients twelve to fifty years of age;
(ix) Patient's best contact telephone number;
(x) For blood lead level tests, medicaid status of patients less than seventy-two months of age;
(xi) Requesting health care provider's name;
(xii) Requesting health care provider's phone number;
(xiii) Address where patient received care;
(xiv) Name of submitting laboratory;
(xv) Telephone number of submitting laboratory;
(xvi) Specimen type;
(xvii) Specimen collection date;
(xviii) Date laboratory received specimen; and
(xix) Test method requested.
- (b) Ensure the laboratory report is submitted appropriately either by:
- (i) Arranging for the reference laboratory to submit the laboratory report under Table Lab-1 of WAC 246-101-201, 246-101-220, and 246-101-225; or
(ii) Submitting the laboratory report under Table Lab-1 of WAC 246-101-201, 246-101-220, and 246-101-225.
- (5) A laboratory director may provide health information, demographic information, or infectious or noninfectious condition information in addition to the information required under this chapter when the provider or facility determines that the additional information will aid the appropriate public health authority in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions.
- (6) When a laboratory director submits information under subsection (4) of this section, they shall submit the information under the requirements of WAC 246-101-220.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-205, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-205, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-210 Means of specimen submission—Laboratory directors and laboratories. (1) ~~((When submitting specimens as indicated in Table Lab-1 of WAC 246-101-201, laboratories shall adhere to the following timelines and procedures:~~

~~(a) Specimens designated for submission within two business days must be in transit within two business days from the time the specimen is ready for packaging;~~

~~(b) Specimens designated for submission on request may be requested by the local health departments or the department. The laboratory shall ship a requested specimen within two business days of receiving the request, provided the specimen is still available at the time of the request. This is not intended to require laboratories to save specimens indefinitely in anticipation of a request.~~

~~(2) Local health jurisdictions may temporarily waive specimen submission for circumstances at their discretion by communication with individual laboratories.)~~ A laboratory director shall submit specimens as required in Table Lab-1 of WAC 246-101-201 in accordance with the requirements of this chapter.

(2) For test results notifiable to local health jurisdictions, the local health officer may temporarily waive specimen submission requirements and notify laboratories, including the Washington state public health laboratories, of the basis for the waiver, which requirements are being waived and how long the waiver will be in effect.

(3) ~~((Laboratories))~~ A laboratory shall forward ((all)) required specimens ((submissions)) to:

Washington State Public Health Laboratories
Washington State Department of Health
1610 N.E. 150th Street
Shoreline, WA 98155

(4) The state health officer may designate additional laboratories as public health ~~((referral))~~ reference laboratories.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-210, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 70.24.125 and 70.28.010. WSR 00-23-120, § 246-101-210, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-215 Content of documentation accompanying specimen submission—Laboratory directors. ~~((For each condition listed in Table Lab-1 of WAC 246-101-201,))~~ A laboratory director((s)) shall provide the following information with each specimen ((submission):

~~(1) Type of specimen tested;~~

~~(2) Name of reporting laboratory;~~

~~(3) Telephone number of reporting laboratory;~~

~~(4) Date of specimen collection;~~

~~(5) Requesting health care provider's name;~~

~~(6) Requesting health care provider's phone number;~~

- ~~(7) Requesting health care provider's address, when available;~~
~~(8) Test result;~~
~~(9) Name of patient;~~
~~(10) Sex of patient, when available in laboratory database;~~
~~(11) Date of birth or age of patient, when available in laboratory database;~~
~~(12) Full address of patient, or patient zip code at a minimum, when available in laboratory database;~~
~~(13) Telephone number of patient, when available in laboratory database;~~
~~(14) Other information of epidemiological value, when available))~~
submitted under this chapter to the Washington state public health laboratories:
- (1) Patient's first and last name;
 - (2) Patient's physical address including zip code;
 - (3) Patient's date of birth;
 - (4) Patient's sex;
 - (5) Patient's ethnicity, as required in WAC 246-101-011(4);
 - (6) Patient's race, as required in WAC 246-101-011(5);
 - (7) Patient's preferred language, as required in WAC 246-101-011(6);
 - (8) For hepatitis B virus, pregnancy status (pregnant, not pregnant, or unknown) of patients twelve to fifty years of age;
 - (9) Patient's best contact telephone number;
 - (10) Requesting health care provider's name;
 - (11) Requesting health care provider's phone number;
 - (12) Address where patient received care;
 - (13) Name of submitting laboratory;
 - (14) Telephone number of submitting laboratory;
 - (15) Specimen type;
 - (16) Specimen collection date;
 - (17) Date laboratory received specimen;
 - (18) Test method used; and
 - (19) Test result.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-215, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 70.24.125 and 70.28.010. WSR 00-23-120, § 246-101-215, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-220 Means of notification ((for positive preliminary test results and positive final test results))—Laboratory directors.
A laboratory director((s)) shall ((adhere to the following timelines and procedures:

~~(1) Conditions designated as immediately notifiable must be reported to the local health officer or the department, as specified in Table Lab-1 of WAC 246-101-201, immediately at the time of positive preliminary test result or positive final test result. This applies twenty-four hours a day, seven days a week. Each local health jurisdiction, as well as the department, maintains after-hours emergency telephone contacts for this purpose. A party sending notification by~~

~~secure facsimile copy or secure electronic transmission during normal business hours must confirm immediate receipt by a live person.~~

~~(2) Conditions designated as notifiable within twenty-four hours must be reported to the local health officer or the department, as specified in Table Lab-1 of WAC 246-101-201, within twenty-four hours of positive preliminary test result or positive final test result, seven days a week. Reports during normal public health business hours may be sent by secure electronic transmission, telephone, or secure facsimile copy of a case report. A party sending a report outside of normal public health business hours must use the after-hours emergency phone contact for the appropriate jurisdiction.~~

~~(3) Conditions designated as notifiable within two business days must be reported to the local health officer or the department, as specified in Table Lab-1 of WAC 246-101-201, within two business days. Notification may be sent by secure electronic transmission, telephone, or secure facsimile copy of a case report; and~~

~~(4) Conditions designated as notifiable on a monthly basis must be reported to the local health officer or the department, as specified in Table Lab-1 of WAC 246-101-201, on a monthly basis. Notification may be sent by written case report, secure electronic transmission, telephone, or secure facsimile copy of a case report):~~

~~(1) Submit laboratory reports as required under this chapter by secure electronic data transmission.~~

~~(2) Call the local health jurisdiction in which the case occurred immediately and confirm receipt of a presumptive or final test result for a condition designated as:~~

~~(a) Immediately notifiable; or~~

~~(b) Notifiable within twenty-four hours when submitting the test result outside the local health jurisdiction's normal business hours.~~

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-220, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 70.24.125 and 70.28.010. WSR 00-23-120, § 246-101-220, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-225 Content of ((notifications for positive preliminary test results and positive final test results)) laboratory reports —Laboratory directors. (1) ((For each condition listed in Table Lab-1 of WAC 246-101-201,)) A laboratory director((s must)) shall provide the following information ((for)) in each ((positive culture or suggestive test result)) laboratory report required under this chapter:

~~((a) Type of specimen tested;~~

~~(b) Name of reporting laboratory;~~

~~(c) Telephone number of reporting laboratory;~~

~~(d) Date of specimen collection;~~

~~(e) Date specimen received by reporting laboratory;~~

~~(f) Requesting health care provider's name;~~

~~(g) Requesting health care provider's phone number;~~

~~(h) Requesting health care provider's address, when available;~~

~~(i) Test result;~~

- ~~(j) Name of patient;~~
~~(k) Sex of patient, when available in laboratory database;~~
~~(l) Date of birth or age of patient, when available in laboratory database; and~~
~~(m) Full address of patient, or patient zip code at a minimum, when available in laboratory database.))~~ (a) Patient's first and last name;
(b) Patient's physical address including zip code;
(c) Patient's date of birth;
(d) Patient's sex;
(e) Patient's ethnicity, as required in WAC 246-101-011(4);
(f) Patient's race, as required in WAC 246-101-011(5);
(g) Patient's preferred language, as required in WAC 246-101-011(6);
(h) For hepatitis B virus, pregnancy status (pregnant, not pregnant, or unknown) of patients twelve to fifty years of age;
(i) Patient's best contact telephone number;
(j) For blood lead level, medicaid status of patients less than seventy-two months of age;
(k) Requesting health care provider's name;
(l) Requesting health care provider's phone number;
(m) Address where patient received care;
(n) Name of submitting laboratory;
(o) Telephone number of submitting laboratory;
(p) Specimen type;
(q) Specimen collection date;
(r) Date laboratory received specimen;
(s) Test method used; and
(t) Test result.

(2) The local health ((~~officers and~~) ~~officer or the state health officer may ((require laboratory directors to report other)) request additional information of epidemiological or public health value when conducting a case investigation or otherwise for prevention and control of a specific notifiable condition.~~

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-225, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 43.70.545, 70.24.125 and 70.28.010. WSR 00-23-120, § 246-101-225, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-230 Handling ((~~of case reports and medical~~) ~~confidential information—Laboratory directors~~. (1) ((~~All records and specimens containing or accompanied by patient identifying information are confidential. The Washington state public health laboratories, other laboratories approved as public health referral laboratories, and any persons, institutions, or facilities submitting specimens or records containing patient identifying information.~~) A laboratory shall maintain the confidentiality of ((identifying information accompanying submitted laboratory specimens)) health care information consistent with chapter 70.02 RCW and any other applicable confidentiality laws.

(2) A laboratory director((s)) shall establish and implement policies and procedures to maintain confidentiality ((related to a patient's medical)) of health care information.

~~((3) Laboratory directors and personnel working in laboratories who know of a person with a notifiable condition, other than a sexually transmitted disease, shall release identifying information only to other individuals responsible for protecting the health and well-being of the public through control of disease.~~

~~(4) Laboratory directors and personnel working in laboratories with knowledge of a person with sexually transmitted disease, and following the basic principles of health care providers, which respect the human dignity and confidentiality of patients:~~

~~(a) May disclose identity of a person or release identifying information only as specified in RCW 70.24.105; and~~

~~(b) Shall under RCW 70.24.105(6), use only the following customary methods for exchange of medical information:~~

~~(i) Laboratory directors and personnel working in laboratories may exchange medical information related to HIV testing, HIV test results, and confirmed HIV or confirmed STD diagnosis and treatment in order to provide health care services to the patient. This means that information shared impacts the care or treatment decisions concerning the patient; and the laboratory director or personnel working in the laboratory require the information for the patient's benefit.~~

~~(ii) Laboratory directors are authorized to permit access to a patient's medical information and medical record by laboratory staff or office staff to carry out duties required for care and treatment of a patient, the management of medical information, and the management of the patient's medical record.))~~

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-230, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-230, filed 11/22/00, effective 12/23/00.]

PART IV: NOTIFIABLE CONDITIONS—DUTIES OF OTHERS

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-405 ((Responsibilities of)) Duties—Veterinarians.

(1) A veterinarian((s)) shall((:

~~(a) Notify the local health officer of the jurisdiction in which the human resides of any suspected human case or suspected human outbreak based on the human's exposure to a confirmed animal case of any disease listed in Table V-1 of this section:~~

~~Table V-1 (Conditions Notifiable by Veterinarians)~~

Notifiable Condition	Time Frame for Notification	Notifiable to Local Health Department
Anthrax	Immediately	√
Arboviral Disease	Within 24 hours	√
Brucellosis (<i>Brucella</i> species)	Within 24 hours	√
<i>Burkholderia mallei</i> (Glanders)	Immediately	√
Disease of suspected bioterrorism origin (including but not limited to anthrax)	Immediately	√
<i>E. coli</i> – Refer to "Shiga toxin-producing <i>E. coli</i> "	Immediately	√
Emerging condition with outbreak potential	Immediately	√
Influenza virus, novel or unsubtypeable strain	Immediately	√
Leptospirosis	Within 24 hours	√
Plague	Immediately	√
Psittacosis	Within 24 hours	√
Q Fever	Within 24 hours	√
Rabies (suspected human or animal)	Immediately	√
Shiga toxin-producing <i>E. coli</i> infections (enterohemorrhagic <i>E. coli</i> including, but not limited to, <i>E. coli</i> O157:H7)	Immediately	√
Tularemia	Immediately	√

(√) Indicates that the condition is notifiable to the local health department.

~~(b)) cooperate with public health authorities in ((the)) their:
(a) Investigation of human and animal cases, ((suspected cases,))
outbreaks, ((and)) suspected outbreaks, and clusters of zoonotic dis-
ease ((-~~

~~(c) Cooperate with public health authorities in the implementa-
tion of infection control measures including isolation and quarantine.~~

~~(d) Comply with requirements in chapter 16-70 WAC for submitting
positive specimens and isolates for specific diseases, and provide in-
formation requested by the department or local health jurisdiction.~~

~~(2) The department of health shall:~~

~~(a) Coordinate with the state veterinarian at the department of
agriculture to develop, maintain, and implement a procedure for noti-
fying the department of animal cases of the conditions listed in Table
V-1 of this section.~~

~~(b) Notify the local health jurisdiction of reported animal cases
of the conditions in Table V-1 of this section); and~~

~~(b) Implementation of infection control measures.~~

~~(2) Cooperation with public health authorities includes, but is
not limited to:~~

~~(a) Providing information requested by the department or local
health jurisdiction; and~~

~~(b) Following infection control measures for:~~

~~(i) Humans under chapter 246-100 WAC;~~

~~(ii) Dogs, cats, ferrets, and hybrids under WAC 246-100-197; and~~

~~(iii) Other animals under chapter 16.36 RCW.~~

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-405,
filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-405, filed
11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-410 ((Responsibilities of food service)) Duties—Food establishments. (1) For the purposes of this section "food establishment" has the same meaning as defined and referenced under WAC 246-215-01115.

(2) The person in charge of a food ((service)) establishment shall:

((1)) (a) Notify the local health ((department)) jurisdiction of potential foodborne disease as required in WAC ((246-215-260)) 246-215-02215.

((2)) (b) Cooperate with public health authorities in ((the)) their investigation and control of cases, ((suspected cases,)) outbreaks, and suspected outbreaks ((of foodborne or waterborne disease)). This includes, but is not limited to, the release of the name and other pertinent information about food handlers diagnosed with a notifiable condition or other communicable disease ((as it relates to a foodborne or waterborne disease investigation)) to the public health authority.

((3)) (c) Not release identifying information about food handlers with a notifiable condition or other communicable disease to other employees or the general public.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-410, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-410, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-415 ((Responsibilities of child day)) Duties—Child care facilities. (1) For the purposes of this section "child care facility" means an agency that regularly provides early childhood education and early learning services for a group of children for less than twenty-four hours a day and is subject to licensing under chapter 74.15 or 43.216 RCW, or both.

(2) A child ((day)) care ((facilities)) facility shall:

((1)) (a) Notify the local health ((department)) jurisdiction of cases, ((suspected cases,)) outbreaks, and suspected outbreaks of notifiable conditions in Table HC-1 of WAC 246-101-101 that may be associated with the child ((day)) care facility.

((2)) (b) Consult with a health care provider or the local health ((department)) jurisdiction for information about the control and prevention of infectious ((or communicable disease)) conditions, as necessary.

((3)) (c) Cooperate with public health authorities in ((the)) their investigation and control of cases, ((suspected cases,)) outbreaks, and suspected outbreaks ((of disease)) that may be associated with the child ((day)) care facility.

((4)) (d) Establish and implement policies and procedures to maintain confidentiality related to ((medical)) health care information in their possession.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-415, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-415, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-420 ((Responsibilities of)) Duties—Schools. A school(~~s~~) shall:

- (1) Notify the local health (~~department~~) jurisdiction of cases, (~~suspected cases,~~) outbreaks, and suspected outbreaks of (~~disease~~) notifiable conditions in Table HC-1 of WAC 246-101-101 that may be associated with the school.
- (2) Cooperate with the local health (~~department~~) jurisdiction in monitoring influenza.
- (3) Consult with a health care provider or the local health (~~department~~) jurisdiction for information about the control and prevention of infectious (~~or communicable disease~~) conditions, as necessary.
- (4) Cooperate with public health authorities in (~~the~~) their investigation and control of cases, (~~suspected cases,~~) outbreaks, and suspected outbreaks (~~of disease~~) that may be associated with the school.
- (5) Release identifying information only to other individuals responsible for protecting the health and well-being of the public through control of disease.
- (6) (~~Schools shall~~) Establish and implement policies and procedures to maintain confidentiality related to (~~medical~~) health care information in their possession.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-420, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-420, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

- WAC 246-101-425 ((Responsibilities of)) Duties—The general public.**
- (1) Members of the general public shall cooperate with:
 - (a) (~~Cooperate with~~) Public health authorities in (~~the~~) their investigation and control of cases, (~~suspected cases,~~) outbreaks, and suspected outbreaks (~~of notifiable conditions or other communicable diseases~~); and
 - (b) (~~Cooperate with the~~) Implementation of infection control measures (~~, including isolation and quarantine~~).
 - (2) Members of the general public may notify the local health (~~department~~) jurisdiction of any case, (~~suspected case,~~) outbreak, or (~~potential~~) suspected outbreak (~~of communicable disease~~).

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-425, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-425, filed 11/22/00, effective 12/23/00.]

**PART V: NOTIFIABLE CONDITIONS (~~(AND)~~)—LOCAL HEALTH JURISDICTIONS
(~~(AND THE DEPARTMENT)~~)**

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-505 Duties (~~(of the)~~)—Local health officer or the local health (~~(department)~~) jurisdiction. (1) A local health officer (~~(s)~~) or (~~(the)~~) local health (~~(department)~~) jurisdiction shall:

(a) Review and determine appropriate action for:

(i) Each (~~(reported)~~) case (~~(or suspected case)~~) of a notifiable condition submitted to the local health jurisdiction;

(ii) Any (~~(disease or)~~) condition considered a threat to public health; and

(iii) Each (~~(reported)~~) outbreak or suspected outbreak of disease (~~(, requesting)~~) submitted to the local health jurisdiction, and request assistance from the department in carrying out any of these investigations when necessary.

(b) Establish a system at the local health (~~(department)~~) jurisdiction for maintaining confidentiality of (~~(written)~~) records (~~(and written and telephoned notifiable conditions case reports)~~) under WAC 246-101-515;

(c) Notify health care providers, laboratories, and health care facilities within the (~~(jurisdiction of the)~~) local health (~~(department)~~) jurisdiction of requirements in this chapter;

(d) Notify the department of cases of (~~(any)~~) conditions notifiable to the local health (~~(department except animal bites) upon completion of the case investigation)~~) jurisdiction under this chapter;

(e) (~~(Distribute appropriate notification forms to persons responsible for reporting;~~

~~(f))~~) Notify the principal health care provider named in the case report or laboratory report, if possible, prior to initiating a case investigation (~~(by the local health department)~~);

(~~(g)~~) Carry out the HIV partner notification requirements of WAC 246-100-072;

~~(h))~~) (f) Allow laboratories to contact the health care provider ordering the diagnostic test before initiating patient contact if requested and the delay is unlikely to jeopardize public health; and

(~~(i)~~) (g) Conduct investigations and institute infection control measures in accordance with chapter 246-100 WAC.

(2) The local health (~~(department)~~) jurisdiction may:

(a) Adopt alternate arrangements for meeting the (~~(reporting)~~) requirements under this chapter through cooperative agreement between

the local health ((department)) jurisdiction and any health care provider, laboratory, or health care facility(~~(s)~~). The alternative must provide the same level of public health protection as the reporting requirement for which an alternative is sought;

(b) Receive health information, demographic information, and infectious or noninfectious condition information in addition to that required under this chapter from health care providers, health care facilities, laboratories, the department of agriculture, and the department of labor and industries when the entity submitting the information determines that the additional information will aid the public health authority in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions.

(3) When the local health jurisdiction receives information under subsection (2)(b) of this section, the local health jurisdiction shall handle the information under the requirements of WAC 246-101-515.

(4) Each local health officer ((has the authority to)) may:

(a) Carry out additional steps ((determined to be)) necessary to verify a diagnosis reported by a health care provider;

(b) Require any person suspected of having a notifiable condition to submit to examinations ((required)) necessary to determine the presence or absence of the condition;

(c) Investigate any case ((or suspected case)) of a ((reportable disease or)) notifiable condition or other ((illness, communicable or otherwise)) infectious or noninfectious condition, if deemed necessary; and

(d) Require the notification of additional conditions of public health importance occurring within the jurisdiction of the local health officer.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-505, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-101-505, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 43.20.050 (2)(d), 70.05.050 and 70.05.060. WSR 03-06-003, § 246-101-505, filed 2/19/03, effective 2/19/03. Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-505, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-510 Means of notification—Local health officer or local health jurisdiction. (1) A local health ((departments)) jurisdiction shall:

(a) Maintain a twenty-four-hour telephone number to receive confirmation calls of case reports or laboratory reports submitted under this chapter for:

(i) Immediately notifiable conditions; and

(ii) Conditions designated as notifiable within twenty-four hours.

(b) Notify the department immediately ((by telephone or secure electronic data transmission of any case or suspected case of:

~~(a) Botulism;~~

~~(b) Cholera;~~

- ~~(c) Diphtheria;~~
 - ~~(d) Disease of suspected bioterrorism origin (including, but not limited to, anthrax);~~
 - ~~(e) Emerging condition with outbreak potential;~~
 - ~~(f) Influenza, novel strain;~~
 - ~~(g) Measles;~~
 - ~~(h) Paralytic shellfish poisoning;~~
 - ~~(i) Plague;~~
 - ~~(j) Poliomyelitis;~~
 - ~~(k) Rabies, human;~~
 - ~~(l) SARS;~~
 - ~~(m) Smallpox;~~
 - ~~(n) Tularemia;~~
 - ~~(o) Viral hemorrhagic fever; and~~
 - ~~(p) Yellow fever.~~
- ~~(2) Immediate notifications of cases and suspected cases shall include:~~
- ~~(a) Patient name;~~
 - ~~(b) Patient's notifiable condition; and~~
 - ~~(c) Condition onset date.~~
- ~~(3) For each case of any condition notifiable to the local health department, submit to the department case report either on a form provided by the department or in a format approved by the department. Case reports must be sent by secure electronic transmission or telephone within seven days of completing the case investigation. If the case investigation is not complete within twenty-one days of notification, pertinent information collected from the case investigation must be sent to the department and shall include:~~
- ~~(a) Patient name;~~
 - ~~(b) Patient's notifiable condition or suspected condition;~~
 - ~~(c) Source or suspected source; and~~
 - ~~(d) Condition onset date.~~
- ~~(4) Local health officials will report asymptomatic HIV infection cases to the department according to a standard code developed by the department.~~
- ~~(5) When notified of an outbreak or suspected outbreak of illness due to an infectious agent or toxin, the local health department shall:~~
- ~~(a) Notify the department immediately by telephone or secure electronic data transmission.~~
 - ~~(b) Include in the initial notification:~~
 - ~~(i) Organism or suspected organism;~~
 - ~~(ii) Source or suspected source; and~~
 - ~~(iii) Number of persons affected.~~
 - ~~(c) Within seven days of completing the outbreak investigation, submit) using either telephone or secure electronic data transmission:~~
 - ~~(i) Upon receiving a case report or laboratory report for a condition that is immediately notifiable to the local health jurisdiction under this chapter, excluding Meningococcal disease, invasive (*Neisseria meningitidis*); Shiga toxin-producing *E. coli* (STEC)/enterohemorrhagic *E. coli*; and Vaccinia; and~~
 - ~~(ii) Of an outbreak or suspected outbreak within their jurisdiction;~~
 - ~~(c) Notify the department using a secure electronic disease surveillance system within three business days of receiving a case report~~

or laboratory report for a condition that is not immediately notifiable to the local health jurisdiction under this chapter;

(d) If after submitting a notification to the department, the local health officer determines no further investigation is necessary, indicate in the secure electronic disease surveillance system that no further investigation is warranted within three business days of the determination.

(e) Immediately reassign cases to the department upon determining the patient who is the subject of the case:

(i) Is a resident of another local health jurisdiction; or

(ii) Resides outside Washington state.

(f) Submit an investigation report to the department using a secure electronic disease surveillance system for each case report or laboratory report received by the local health jurisdiction for which the local health officer determined an investigation was necessary:

(i) Within seven days of completing the investigation for any condition notifiable to the local health jurisdiction; or

(ii) Within twenty-one days of receiving the case report or laboratory report if the investigation is not complete.

(g) Submit an outbreak report to the department (~~a report on forms provided by the department or in a format approved by the department~~) using secure electronic data transmission within seven days of completing an outbreak investigation. The department may waive this requirement if (~~telephone or secure electronic data transmission~~) notification under (b) (ii) of this subsection provided (~~pertinent~~) sufficient information.

(2) The local health officer shall confirm that each case is based on clinical criteria, or laboratory criteria, or both prior to submitting the investigation report to the department. These criteria include, but are not limited to, the Centers for Disease Control and Prevention, National Notifiable Diseases Surveillance System, Council of State and Territorial Epidemiologists case definitions.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-510, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 70.24.125 and 70.28.010. WSR 00-23-120, § 246-101-510, filed 11/22/00, effective 12/23/00.]

NEW SECTION

WAC 246-101-513 Content of notifications, investigation reports, and outbreak reports—Local health officer. A local health officer shall provide the following information for each notification, investigation report, and outbreak report submitted under WAC 246-101-510:

(1) Notifications must include:

(a) Patient's first and last name;

(b) Patient's notifiable condition;

(c) Date local health jurisdiction was notified;

(d) Condition symptom onset date (preferred), or alternatively, diagnosis date;

(e) Patient's date of birth; and

(f) Patient's sex.

(2) Investigation reports must include:

(a) Patient's first and last name;

- (b) Patient's date of birth;
 - (c) Patient's ethnicity, as required in WAC 246-101-011(4);
 - (d) Patient's race, as required in WAC 246-101-011(5);
 - (e) Patient's preferred language, as required in WAC 246-101-011(6);
 - (f) For hepatitis B acute or chronic infection investigation reports, pregnancy status (pregnant, not pregnant, or unknown) of patients twelve to fifty years of age;
 - (g) Investigation start date;
 - (h) Investigation completion date;
 - (i) Initial notification source;
 - (j) Hospitalization status of patient;
 - (k) Whether the patient died during this illness;
 - (l) Probable geographic region of exposure (i.e., county, state, or country other than the United States of America);
 - (m) Travel out of the country (as applicable);
 - (n) Whether the case is associated with an ongoing outbreak investigation; and
 - (o) The data used to verify the case meets clinical criteria, or laboratory criteria, or both. These criteria include, but are not limited to, the Centers for Disease Control and Prevention, National Notifiable Diseases Surveillance System, Council of State and Territorial Epidemiologists case definitions.
- (3) Outbreak reports must include:
- (a) Organism or suspected organism;
 - (b) Source or suspected source; and
 - (c) Number of persons infected and potentially exposed.

[]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-515 Handling (~~of case reports and medical~~) confidential information—Local health officers and local health jurisdictions. (1) Local health officers and local health jurisdiction employees shall maintain the confidentiality of health care information consistent with chapter 70.02 RCW, RCW 42.56.360(2), and any other applicable confidentiality laws.

(2) Local health officers or local health (~~departments~~) jurisdictions shall establish and (~~maintain~~) implement confidentiality policies and procedures related to employee handling of (~~all reports of cases and suspected cases, prohibiting disclosure of report information identifying an individual case or suspected cases except:~~

(a) ~~To employees of the local health department, another local health department, or other official agencies needing to know for the purpose of administering public health laws and these regulations;~~

(b) ~~To health care providers, designees of health care facilities, laboratory directors, and others for the purpose of collecting additional information about a case or suspected case as required for disease prevention and control;~~

~~(2)) health care information.~~

(3) Local health officers shall (~~require and maintain signed confidentiality agreements with~~):

~~(a) Require all local health ((department)) jurisdiction employees with access to ((identifying)) health care information ((related to a case or suspected case of a person diagnosed with a notifiable condition. The agreements will be renewed)) to sign confidentiality agreements;~~

~~(b) Retain current signed confidentiality agreements;~~

~~(c) Reference in confidentiality agreements the penalties for violation of chapter 70.24 RCW and administrative actions that may be taken by the local health jurisdiction if the confidentiality agreement is violated; and~~

~~(d) Renew confidentiality agreements at least annually ((and will include reference to criminal and civil penalties for violation of chapters 70.02 and 70.24 RCW and other administrative actions that may be taken by the local health department.~~

~~(3) Local health departments may release statistical summaries and epidemiological studies based on individual case reports if no individual is identified or identifiable).~~

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-515, filed 1/4/11, effective 2/4/11; WSR 00-23-120, § 246-101-515, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 06-16-117, filed 8/1/06, effective 9/1/06)

WAC 246-101-520 Special conditions—AIDS and HIV—Local health officers and local health jurisdictions. (1) The local health officer and local health ((department)) jurisdiction personnel shall maintain individual case reports, laboratory reports, investigation reports, and other data and supporting information for AIDS and HIV as confidential records consistent with the requirements of ((this section)) RCW 70.02.220 and any other applicable confidentiality laws.

(2) The local health officer and local health ((department)) jurisdiction personnel ((must)) shall:

(a) Use identifying information ((on HIV-infected individuals)) of individuals tested, diagnosed, or reported with HIV only:

(i) ((For purposes of contacting the HIV-positive individual)) To contact the individual tested, diagnosed, or reported with HIV to provide test results ((and post-test counseling)) or refer the individual to social and medical services; or

(ii) To contact persons who have ((experienced substantial exposure, including)) been identified as sex ((and)) or injection equipment-sharing partners ((, and spouses)); or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed care services ((and counseling)) and disease prevention, provided that the identity or identifying information of the individual tested, diagnosed, or reported with HIV is not disclosed outside of the local health jurisdiction; or

(iv) As specified in WAC 246-100-072; or

(v) To provide case reports, laboratory reports, or investigation reports to the ((state health)) department; or

(vi) To conduct investigations under RCW 70.24.022 or 70.24.024.

~~(b) ((Destroy case report identifying information on asymptomatic HIV-infected individuals received as a result of this chapter within three months of receiving a complete case report, or)) Within ninety days of completing an investigation report, or of receiving a complete investigation report from another public health authority:~~

~~(i) Destroy case reports, laboratory reports, investigation reports, and other data and supporting identifying information on individuals tested, diagnosed, or reported with HIV received as a result of this chapter. If an investigation is not conducted for a case, then the identifying information for that case shall be destroyed within ninety days of receiving a complete HIV case report or laboratory report; or~~

~~(ii) Maintain HIV case reports, laboratory reports, investigation reports, and other data and supporting information in secure systems ((that meet the following standards and are)) consistent with the ((2006)) 2011 Data Security and Confidentiality Guidelines ((developed)) for HIV, Viral Hepatitis, Sexually Transmitted Disease, and Tuberculosis Programs: Standards to Facilitate Sharing and Use of Surveillance Data for Public Health Action published by the Centers for Disease Control and Prevention.~~

~~(3) The local health officer shall:~~

~~((i)) (a) Describe the secure systems ((must be described)) in written policies ((that are reviewed)) and review the policies annually ((by the local health officer));~~

~~((ii)) (b) Limit access to case report, laboratory report, investigation report, and other data and supporting information ((must be limited)) to local health ((department)) jurisdiction staff who need ((it)) the information to perform their job duties ((and));~~

~~(c) Maintain a current list of ((these)) local health jurisdiction staff ((must be maintained by the local health officer)) with access to case report, laboratory report, investigation report, and other data and supporting information;~~

~~((iii) All)) (d) Enclose physical locations containing electronic or paper copies of surveillance data ((must be enclosed)) in a locked, secured area with limited access and not accessible by window;~~

~~((iv)) (e) Store paper copies or electronic media containing surveillance information ((must be housed)) inside locked file cabinets that are in the locked, secured area;~~

~~((v)) (f) Destroy information by either shredding it with a crosscut shredder ((must be available for destroying information and)) or appropriately sanitizing electronic media ((must be appropriately sanitized)) prior to disposal;~~

~~((vi)) (g) Store files or databases containing confidential information ((must reside)) on either stand-alone computers with restricted access or on networked drives with proper access controls, encryption software, and firewall protection;~~

~~((vii)) (h) Protect electronic communication of confidential information ((must be protected)) by encryption standards ((that are reviewed annually by the local health officer)) and review the standards annually; and~~

~~((viii)) (i) Make available locking briefcases ((must be available)) for transporting confidential information((+
(e))).~~

~~(4) The local health officer and local health jurisdiction staff shall:~~

~~(a) If maintaining identifying information on ((asymptomatic HIV-infected)) individuals tested, diagnosed, or reported with HIV more~~

than ninety days following ~~((receipt of a completed case))~~ completion of an investigation report or receipt of a complete investigation report from another public health authority, cooperate with the department ~~((of health))~~ in biennial review of system security measures described in subsection (2)(b) of this ((subsection)) section.

~~((d)) Destroy documentation of referral information established in WAC 246-100-072 containing identities and identifying information on HIV-infected individuals and at-risk partners of those individuals immediately after notifying partners or within three months, whichever occurs first unless such documentation is being used in an investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024.~~

~~((e))~~ (b) Not disclose identifying information received as a result of this chapter unless:

(i) Explicitly and specifically required to do so by state or federal law; ~~((or))~~

(ii) Permitted under RCW 70.02.220; or

(iii) Authorized by written patient consent.

~~((2)) Local health department personnel are authorized to use HIV identifying information obtained as a result of this chapter only for the following purposes:~~

~~(a) Notification of persons with substantial exposure, including sexual or syringe-sharing partners;~~

~~(b) Referral of the infected individual to social and health services;~~

~~(c) Linkage to other public health databases, provided that the identity or identifying information on the HIV-infected person is not disclosed outside of the health department; and~~

~~(d) Investigations pursuant to RCW 70.24.022 or 70.24.024.~~

~~(3) Public health databases do not include health professions licensing records, certifications or registries, teacher certification lists, other employment rolls or registries, or databases maintained by law enforcement officials.~~

~~(4) Local health officials will report HIV infection cases to the state health department.~~

~~(5) Local health officers must require and maintain signed confidentiality agreements with all health department employees with access to HIV identifying information. These agreements will be renewed at least annually and include reference to criminal and civil penalties for violation of chapter 70.24 RCW and other administrative actions that may be taken by the department.~~

~~((6))~~ (5) Local health officers ~~((must))~~ shall investigate potential breaches of the confidentiality of HIV identifying information by health ~~((department))~~ jurisdiction employees. The local health officer shall report all breaches of confidentiality ((must be reported)) to the state health officer ~~((or their designee))~~ for review and appropriate action.

~~((7)) Local health officers and local health department personnel must assist the state health department to reascertain the identities of previously reported cases of HIV infection.))~~

[Statutory Authority: RCW 70.24.125. WSR 06-16-117, § 246-101-520, filed 8/1/06, effective 9/1/06. Statutory Authority: RCW 70.24.130 and 70.24.380. WSR 05-11-110, § 246-101-520, filed 5/18/05, effective 6/18/05. Statutory Authority: RCW 43.20.050 and 70.24.125. WSR 00-23-120, § 246-101-520, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-525 ~~Special condition—Influenza—Local health jurisdictions.~~ A local health ((departments)) jurisdiction shall:

(1) Maintain a surveillance system for influenza during the ((appropriate)) influenza season which may include:

(a) Monitoring of excess school absenteeism;

(b) ((Sample check with)) Requesting information from health care providers ((, clinics, nursing homes, and hospitals)) and health care facilities regarding influenza-like illnesses; and

(c) Monitoring ((of)) workplace absenteeism and other mechanisms.

(2) ((Encourage)) Request submission of appropriate clinical specimens from a sample of patients with influenza-like illness to the Washington state public health laboratories or other laboratory approved by the state health officer.

[Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-525, filed 11/22/00, effective 12/23/00.]

PART VI: NOTIFIABLE CONDITIONS—DEPARTMENT OF HEALTH

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-605 ~~Duties ((of the))—Department ((of health)).~~

(1) The department shall:

(a) Upon request, provide consultation and technical assistance to local health ((departments and)) jurisdictions, the department of labor and industries, and the department of agriculture when they are investigating notifiable conditions ((reports upon request)).

(b) Upon request, provide consultation and technical assistance to health care providers, laboratories, health care facilities, and others required to ((make notifications to public health authorities of notifiable conditions upon request)) comply with this chapter.

(c) Develop, maintain, and make available for local health ((departments)) jurisdictions guidance on investigation and control measures for notifiable ((communicable disease)) conditions.

(d) ((Develop and)) Make case report, laboratory report, specimen submittal forms, and investigation report forms available ((forms for the submission of notifiable conditions data)) to local health ((departments)) jurisdictions, health care providers, laboratories, health care facilities, and others required to ((make notifications to public health authorities of notifiable conditions)) comply with this chapter.

(e) Maintain a twenty-four hour telephone number ((for reporting notifiable conditions)) to receive:

(i) Confirmation calls for immediately notifiable condition case reports and laboratory reports; and

(ii) Notification of immediately notifiable conditions including outbreaks and suspected outbreaks from local health jurisdictions.

(f) Develop routine data dissemination mechanisms that describe and analyze notifiable conditions case investigations and data (~~(-~~ These may include annual and monthly reports and other mechanisms for data dissemination as developed by the department) in accordance with WAC 246-101-615.

(g) Conduct investigations and institute infection control measures as necessary.

(h) Document the known environmental, human, and other variables associated with a case (~~(or suspected case)~~) of pesticide poisoning.

(i) Report the results of the pesticide poisoning investigation to the principal health care provider named in the case report or laboratory report (~~(form)~~) and to the local health officer in whose jurisdiction the (~~exposure has~~) case occurred.

(2) The department may:

(a) Negotiate (~~(alternate arrangements)~~) alternatives for meeting (~~(reporting)~~) requirements under this chapter through cooperative agreement between the department and any health care provider, laboratory, (~~(or)~~) health care facility, or state agency. An alternative must provide the same level of public health protection as the reporting requirement for which an alternative is sought.

(b) (~~(Consolidate reporting for notifiable conditions from any)~~) Under an approved cooperative agreement, relieve a health care provider, laboratory, or health care facility (~~(, and relieve that health care provider, laboratory, or health care facility from reporting directly to each)~~) of the duty to notify a local health (~~(department)~~) jurisdiction, if the department can (~~(provide the report)~~) consolidate and submit notifications to the local health (~~(department)~~) jurisdiction within the (~~(same time as the local health department would have otherwise received it)~~) time frame for notification required under Table HC-1 of WAC 246-101-101 and Table Lab-1 of WAC 246-101-201.

(c) Receive health care information, demographic information, and infectious or noninfectious condition information in addition to that required under this chapter from health care providers, health care facilities, laboratories, and public health authorities.

(3) When the department receives information under subsection (2)(c) of this section, the department shall handle the information under the requirements of WAC 246-101-610.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-605, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 43.70.545 and 70.104.030. WSR 00-23-120, § 246-101-605, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-610 Handling of (~~(case reports and medical)~~) confidential information and information exempt from public disclosure—State health officer and department. (1) The state health officer and department employees shall maintain the confidentiality of health care

information in accordance with chapter 70.02 RCW, RCW 42.56.360(2), and any other applicable confidentiality laws.

~~(2) The state health officer ((or designee)) shall establish and ((maintain)) implement confidentiality policies and procedures related to employee handling of ((all reports of cases and suspected cases, prohibiting disclosure of report information identifying an individual case or suspected cases except:~~

~~(a) To employees of the local health department, other local health departments, or other official agencies needing to know for the purpose of administering public health laws and these regulations.~~

~~(b) To health care providers, specific designees of health care facilities, laboratory directors, and others for the purpose of collecting additional information about a case or suspected case as required for disease prevention and control.~~

~~(c) For research approved by an institutional review board as indicated under chapter 42.48 RCW. The institutional review board applies federal and state privacy laws to research requests for confidential information.~~

~~(2-)) health care information under this chapter.~~

(3) The state health officer or department shall:

~~(a) Require all department employees, contractors, and others with access to ((identifying)) health information ((related to a case or suspected case of a person diagnosed with a notifiable condition shall be required)) to sign ((a)) confidentiality agreements ((. The));~~

~~(b) Retain current signed confidentiality agreements;~~

~~(c) Reference in confidentiality agreements the penalties for violation of chapter 70.24 RCW and administrative actions that may be taken by the department if the confidentiality agreement is violated; and~~

~~(d) Renew confidentiality agreements ((shall be renewed)) at least annually ((and shall include reference to criminal and civil penalties for violation of chapters 70.02 and 70.24 RCW and other administrative actions that may be taken by the department)).~~

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-610, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 43.70.545 and 70.104.030. WSR 00-23-120, § 246-101-610, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 11-02-065, filed 1/4/11, effective 2/4/11)

WAC 246-101-615 ((Requirements for)) Data dissemination and notification—Department. The department shall:

~~(1) Distribute periodic epidemiological summary reports and an annual review of public health issues to local health officers ((and)), local health ((departments)) jurisdictions, and the department of labor and industries.~~

~~(2) ((Upon execution of a data sharing agreement,)) Make available ((any data or other)) case investigation documentation ((in its possession regarding)) for notifiable conditions reported directly to the department to local health officers or ((their designees within two days of a request)) the department of labor and industries within twenty-four hours of receipt by the department.~~

(3) Make other data necessary to conduct case investigations or epidemiological summaries available within two business days of a request from a public health authority.

~~((3))~~ (4) Periodically distribute statistical summaries and epidemiological studies based on individual case reports, laboratory reports, and investigation reports if no ((individual)) patient is identified or identifiable.

[Statutory Authority: RCW 43.20.050. WSR 11-02-065, § 246-101-615, filed 1/4/11, effective 2/4/11. Statutory Authority: RCW 43.20.050, 43.70.545 and 70.104.030. WSR 00-23-120, § 246-101-615, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-630 Special condition—Antibiotic resistant disease—Department. The department shall:

(1) Maintain a surveillance system for monitoring antibiotic resistant disease that may include:

(a) Development of a sentinel network of laboratories to provide information regarding antibiotic resistant disease; and

(b) ~~Sample checks with health care providers ((, clinics, and hospitals))~~ and health care facilities regarding antibiotic resistant disease ~~(())~~; and

(2) ~~((Encourage submission of appropriate clinical))~~ Request the health care providers and laboratories submit specimens from a sample of patients with antibiotic resistant disease to the Washington state public health laboratories or other laboratory approved by the state health officer.

[Statutory Authority: RCW 43.20.050, 43.70.545 and 70.24.125. WSR 00-23-120, § 246-101-630, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 06-16-117, filed 8/1/06, effective 9/1/06)

WAC 246-101-635 Special conditions—AIDS and HIV—Department. The following provisions apply ~~((for))~~ to the use of AIDS and HIV notifiable conditions case reports, laboratory reports, and investigation reports, related information, and data and is in addition to the requirements established under WAC 246-101-610:

(1) Department personnel ~~((must))~~ shall not disclose ~~((identifying))~~ health care information ~~((received as a result of receiving information regarding a notifiable conditions report of))~~ related to a case of AIDS or HIV unless:

(a) Explicitly and specifically required to do so by state or federal law; ~~((or))~~

(b) Permitted under RCW 70.02.220; or

(c) Authorized by written patient consent.

(2) Department personnel ~~((are authorized to))~~ may use HIV identifying information ~~((received as a result of receiving information~~

regarding a notifiable conditions report of) related to a case of AIDS or HIV only for the following purposes:

(a) Notification of persons ~~((with substantial exposure, including sexual or syringe sharing))~~ identified as sex or injection equipment-sharing partners;

(b) Referral of the ~~((infected))~~ individual tested, diagnosed, or report with HIV to social and ((health)) medical services; and

(c) Linkage to other public health databases, provided that the identity or identifying information ~~((on))~~ of the ((HIV-infected person)) individual tested, diagnosed, or reported with HIV is not disclosed outside ((of)) the ((health)) department.

(3) ~~((For the purposes of this chapter, public health databases do not include health professions licensing records, certifications or registries, teacher certification lists, other employment rolls or registries, or databases maintained by law enforcement officials.~~

~~((4))~~ The state health officer ~~((must))~~ shall require and maintain signed confidentiality agreements with all department employees with access to HIV identifying information. The state health officer shall ensure these agreements ((will be)) are renewed at least annually and include reference to ((criminal and civil)) penalties for violation of chapter 70.24 RCW and ((other)) administrative actions that may be taken by the department.

~~((5))~~ (4) The state health officer ~~((must))~~ shall investigate potential breaches of the confidentiality of HIV identifying information by department employees. All breaches of confidentiality shall be reported to the state health officer or their authorized representative for review and appropriate action.

~~((6))~~ (5) The department ~~((must))~~ shall maintain all HIV case reports, laboratory reports, and investigation reports and other data and supporting information in a name-based surveillance system solely for the purpose of complying with HIV reporting guidelines from the ~~((federal))~~ Centers for Disease Control and Prevention, and ~~((must))~~ shall not disclose or otherwise use any information contained in that system for any other purpose, except as expressly permitted by this section.

~~((7))~~ Authorized representatives of the department must review available records to reascertain the identities of previously reported cases of asymptomatic HIV infection and retain those cases in a confidential name-based system.

~~((8))~~ (6) The department ~~((must))~~ shall:

(a) Maintain HIV case reports, laboratory reports, and investigation reports and other data and supporting information in secure systems that meet the following standards and are consistent with the ((2006)) 2011 Data Security and Confidentiality Guidelines ((developed)) for HIV, Viral Hepatitis, Sexually Transmitted Disease, and Tuberculosis Programs: Standards to Facilitate Sharing and Use of Surveillance Data for Public Health Action published by the Centers for Disease Control and Prevention((+)

~~((a))~~ ;

(b) Describe secure systems ((must be described)) in written policies ((that are reviewed)) and review the policies annually ((by the overall responsible party));

~~((b))~~ (c) Limit access to case report, laboratory report, and investigation report and other data and supporting information ((must be limited)) to ((health)) department staff who need it to perform their job duties ((and));

~~(d) Maintain a current list of ((these)) department staff ((must be maintained by the overall responsible party)) with access to case report, laboratory report, and investigation report and other data and supporting information;~~

~~((e)) (e) Enclose all physical locations containing electronic or paper copies of surveillance data ((must be enclosed)) in a locked, secured area with limited access and not accessible by window;~~

~~((d)) (f) Store paper copies or electronic media containing surveillance information ((must be housed)) inside locked file cabinets that are in the locked, secured area;~~

~~((e)) (g) Destroy information by either shredding it with a crosscut shredder ((must be available for destroying information and)) or appropriately sanitizing electronic media ((must be appropriately sanitized)) prior to disposal;~~

~~((f)) (h) Store files or databases containing confidential information ((must reside)) on either stand-alone computers with restricted access or on networked drives with proper access controls, encryption software, and firewall protection;~~

~~((g)) (i) Protect electronic communication of confidential information ((must be protected)) by encryption standards ((that are reviewed)) and review the standards annually ((by the overall responsible party));~~

~~((h)) (j) Use locking briefcases ((must be available)) for transporting confidential information.~~

~~((9)) (7) The state health officer ((or designee must)) shall conduct a biennial review of local health jurisdictions system security measures described in WAC 246-101-520 ((1)(b) at local health jurisdictions)) that are maintaining records by name.~~

~~((10)) (8) When providing technical assistance to a local health ((department)) jurisdiction, authorized representatives of the department may temporarily, and subject to the time limitations in WAC 246-101-520, receive the names of reportable cases of HIV infection for the purpose of partner notification, or special studies. Upon completion of the activities by representatives of the ((state health)) department, named information will be provided to the local health ((department)) jurisdiction subject to the provisions of WAC 246-101-520.~~

~~((11) By December 2007, the state health officer, in cooperation with local health officers, will report to the board on:~~

~~(a) The ability of the HIV reporting system to meet surveillance performance standards established by the federal Centers for Disease Control and Prevention;~~

~~(b) The cost of the reporting system for state and local health departments;~~

~~(c) The reporting system's effect on disease control activities;~~

~~(d) The impact of HIV reporting on HIV testing among persons at increased risk of HIV infection; and~~

~~(e) The availability of anonymous HIV testing in the state.~~

~~((12)) (9) The state health officer ((must)) shall provide a report to the state board of health if federal policy no longer requires that HIV surveillance systems be name-based.~~

[Statutory Authority: RCW 70.24.125. WSR 06-16-117, § 246-101-635, filed 8/1/06, effective 9/1/06. Statutory Authority: RCW 43.20.050, 70.24.125 and 70.28.010. WSR 00-23-120, § 246-101-635, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-640 Special condition—Birth defects. The department shall enter into a data sharing agreement with the office of the superintendent of public instruction (the superintendent) to access data from databases maintained by the superintendent containing student health information for the purpose of identifying cases of autism or other conditions of public health interest.

[Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-640, filed 11/22/00, effective 12/23/00.]

PART VII: NOTIFIABLE CONDITIONS—DEPARTMENT OF LABOR AND INDUSTRIES

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-705 Duties ((of the))—Department of labor and industries. (1) The department of labor and industries shall:

(a) Be responsible for the investigation of cases identified as notifiable to the department of labor and industries under this chapter;

(b) Provide consultation and technical assistance to local health ((departments)) jurisdictions and the department investigating ((notifiable conditions reports)) cases;

((b)) (c) Upon request, provide consultation and technical assistance to health care providers, laboratories, health care facilities, and others required to ((make notifications to public health authorities of notifiable conditions upon request)) notify and cooperate with public health authorities under this chapter;

((e)) (d) Provide technical assistance to businesses and labor organizations for understanding the use of notifiable conditions data collected and analyzed by the department of labor and industries; and

((d)) (e) Develop routine data dissemination mechanisms that describe and analyze notifiable conditions case investigations and data. These may include annual and monthly reports and other mechanisms for data dissemination as developed by the department of labor and industries.

(2) The department of labor and industries may:

(a) Receive data through ((any)) cooperative ((relationship)) agreement negotiated by the department of labor and industries and ((any)) a health care provider, laboratory, or health care facility;

(b) Receive health information, demographic information, and infectious or noninfectious condition information in addition to that required under this chapter from health care providers and health care facilities.

(3) When the department of labor and industries receives information under this section, the department of labor and industries shall handle the information under the requirements of WAC 246-101-710.

[Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-705, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-710 Handling of ~~((case reports and medical information)) confidential information—Department of labor and industries.~~

~~(1) ((The department of labor and industries shall establish and maintain confidentiality procedures related to employee handling of all reports of cases and suspected cases, prohibiting disclosure of report information identifying an individual case or suspected cases except:~~

~~(a) To employees of the local health department, the department, or other official agencies needing to know for the purpose of administering public health laws and these regulations; and~~

~~(b) To health care providers, specific designees of health care facilities, laboratory directors, and others for the purpose of collecting additional information about a case or suspected case as required for occupational condition prevention and control.~~

~~(2)) The director of the department of labor and industries and department of labor and industries employees shall maintain the confidentiality of health care information consistent with chapter 70.02 RCW, RCW 42.56.360(2), and any other applicable confidentiality laws.~~

~~(2) The director of the department of labor and industries shall ((require and maintain signed confidentiality agreements with)):~~

~~(a) Require all employees, contractors, and others with access to ((identifying)) health care information ((related to a case or suspected case of a person diagnosed with a notifiable condition. Such agreements will be renewed at least annually and include reference to criminal and civil penalties for violation of chapter 70.02 RCW, other chapters of pertinent state law, and other administrative actions that may be taken by the department of labor and industries.~~

~~(3) The department of labor and industries may release statistical summaries and epidemiological studies based on individual case reports if no individual is identified or identifiable)), to sign confidentiality agreements;~~

~~(b) Retain signed confidentiality agreements;~~

~~(c) Reference in confidentiality agreements the administrative actions that may be taken by the department of labor and industries if the confidentiality agreement is violated; and~~

~~(d) Renew confidentiality agreements at least annually.~~

[Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-710, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-715 (~~(Requirements for)~~) **Data dissemination and notification—Department of labor and industries.** The department of labor and industries shall:

(1) Distribute periodic epidemiological summary reports and an annual review of public health issues to local health officers ~~(and)~~, local health ((departments)) jurisdictions, and the department.

(2) Make available case investigation documentation for notifiable conditions reported directly to the department of labor and industries, data necessary to conduct case investigations, or epidemiological summaries to local health officers or ~~((their designees upon execution of a data sharing agreement))~~ the department within two business days of a request.

[Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-715, filed 11/22/00, effective 12/23/00.]

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-730 **Special condition—Hospitalized burns.** The department of labor and industries shall maintain a surveillance system for monitoring hospitalized burn~~((s))~~ patients that may include:

(1) Development of a sentinel network of burn treatment centers and hospitals to provide information regarding hospitalized burn~~((s))~~ patients; and

(2) Sample checks with health care providers ~~((, clinics,))~~ and ~~((hospitals))~~ health care facilities regarding hospitalized burn~~((s))~~ patients.

[Statutory Authority: RCW 43.20.050. WSR 00-23-120, § 246-101-730, filed 11/22/00, effective 12/23/00.]

PART VIII: NOTIFIABLE CONDITIONS—DEPARTMENT OF AGRICULTURE

NEW SECTION

WAC 246-101-805 **Duties—Department of agriculture.** (1) For the purposes of this section, "new, emerging, or unusual animal diseases or disease clusters with potential public health significance" means zoonotic or potentially zoonotic diseases in animals that have never or rarely been observed in Washington state (new or emerging); or appear in a new species or show evidence of higher pathogenicity than

expected (unusual); or appear in a higher than expected number of animals clustered in time or space (cluster).

(2) The department of agriculture shall:

(a) Submit an individual animal case report for each animal case of a condition identified in Table Agriculture-1 to the department immediately upon being notified of the animal case using secure electronic data transmission under this table and this chapter.

(b) Call the department and confirm receipt immediately after submitting an animal case report for the following conditions:

- (i) Anthrax (*Bacillus anthracis* or *Bacillus cereus* biovar *anthracis*);
- (ii) Coronavirus infection (SARS-associated coronavirus, MERS-associated coronavirus, and Novel coronavirus (COVID-19));
- (iii) Influenza virus in swine, influenza H5 and H7 (avian);
- (iv) Livestock exposed to toxic substances which may threaten public health;
- (v) Plague (*Yersinia pestis*);
- (vi) Rabies (suspected human or animal);
- (vii) Transmissible Spongiform Encephalopathy; and
- (viii) Tularemia (*Francisella tularensis*).

Table Agriculture-1 (Conditions Notifiable by the Department of Agriculture)

Notifiable Condition (Agent)
Anthrax (<i>Bacillus anthracis</i> or <i>B. cereus</i> biovar <i>anthracis</i>)
Arboviral Diseases
California serogroup
Chikungunya
Dengue
Eastern equine encephalitis
Japanese encephalitis
La Crosse encephalitis
Powassan
St. Louis encephalitis
Western equine encephalitis
West Nile virus
Zika
Brucellosis (<i>Brucella</i> species)
Coccidioidomycosis (<i>Coccidioides</i> species)
Coronavirus infection
SARS-associated coronavirus
MERS-associated coronavirus
Novel coronavirus (COVID-19)
<i>Cryptococcus gattii</i> or undifferentiated <i>Cryptococcus</i> species (i.e., <i>Cryptococcus</i> not identified as <i>C. neoformans</i>)
Cysticercosis (<i>Taenia solium</i>)
Echinococcosis (<i>Echinococcus</i> species)
Ehrlichiosis (<i>Ehrlichia</i> species)
Glanders (<i>Burkholderia mallei</i>)
Influenza virus in swine, influenza H5 and H7 (avian)
Leptospirosis (<i>Leptospira</i> species)
Livestock exposed to toxic substances which may threaten public health

Notifiable Condition (Agent)
Psittacosis (<i>Chlamydia psittaci</i>)
Plague (<i>Yersinia pestis</i>)
Q Fever (<i>Coxiella burnettii</i>)
Rabies (suspected human or animal)
Shiga toxin-producing <i>E. coli</i> infections/enterohemorrhagic <i>E. coli</i> infections
Transmissible Spongiform Encephalopathy
Trichinosis (<i>Trichinella spiralis</i>)
Tuberculosis
Tularemia (<i>Francisella tularensis</i>)
Vancomycin-resistant (<i>Staphylococcus aureus</i>)
Zoonotic Viral Hemorrhagic Fever
New, emerging, or unusual animal diseases or disease clusters with potential public health significance.

(3) The department of agriculture may provide additional health information, demographic information, or infectious or noninfectious condition information than is required under this chapter to the department, local health jurisdiction, or both when it determines that the additional information will aid the public health authority in protecting and improving the public's health through prevention and control of infectious and noninfectious conditions.

(4) When the department of agriculture submits information under subsection (3) of this section, they shall submit the information using secure electronic data transmission.

(5) The department shall:

(a) Consult with the department of agriculture on all animal cases; and

(b) Notify the local health jurisdiction of animal cases submitted to the department.

[]

NEW SECTION

WAC 246-101-810 Content of animal case reports—Department of agriculture. (1) The state department of agriculture shall provide the following information for each animal case required under WAC 246-101-805:

- (a) Animal species;
- (b) Animal county of current residence;
- (c) Diagnosis or suspected diagnosis of the condition;
- (d) Contact name;
- (e) Contact address;
- (f) Contact telephone number;
- (g) Pertinent laboratory data, if available; and
- (h) Other information of public health significance collected under chapter 16-70 WAC.

(2) The local health officer or state health officer may request additional information of epidemiological or public health value when conducting a case investigation or for control of a notifiable condition.

(3) The department and local health jurisdiction shall handle all information received under this chapter including, but not limited to, information collected under this section and WAC 246-101-805 and information collected during case investigations or for investigation or control of a notifiable condition, consistent with applicable provisions of WAC 246-101-515, 246-101-610, and RCW 42.56.380.

[]

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-101-001	Provisions of general applicability.
WAC 246-101-301	Notifiable conditions and health care facilities.
WAC 246-101-305	Duties of the health care facility.
WAC 246-101-310	Means of notification.
WAC 246-101-315	Content of notifications.
WAC 246-101-320	Handling of case reports and medical information.
WAC 246-101-401	Notifiable conditions and the responsibilities and duties of others.
WAC 246-101-501	Notifiable conditions and local health departments.
WAC 246-101-601	Notifiable conditions and the department of health.
WAC 246-101-620	Requirements for notification to the department of labor and industries.
WAC 246-101-625	Content of notifications to the department of labor and industries.
WAC 246-101-701	Notifiable conditions and the department of labor and industries.
WAC 246-101-720	Requirements for notification to local health departments.
WAC 246-101-725	Requirements for notification to the department of health.

WSR 21-04-137
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 2, 2021, 2:07 p.m.]

Continuance of WSR 21-01-190.

Preproposal statement of inquiry was filed as WSR 20-22-078.

Title of Rule and Other Identifying Information: Proposed fee increase for the following factory assembled structures (FAS) rules: WAC 296-150C-3000 Commercial coach fees, 296-150F-3000 Factory-built housing and commercial structure fees, 296-150I-3000 Penalties, fees, and refunds (*manufactured home installer training and certification program*), 296-150M-3000 Manufactured/mobile home fees, 296-150P-3000 Recreational park trailer fees, 296-150T-3000 Factory-built temporary worker housing fees, and 296-150V-3000 Conversion vendor units and medical units—Fees.

Hearing Location(s): On March 9, 2021, at 9:00 a.m., virtual and telephonic hearing only. Please join by Zoom at <https://us02web.zoom.us/j/88280188094>. When prompted, enter the Meeting ID 882 8018 8094 and Passcode Hearing1!; or by calling 1-866-715-6499. When prompted enter the Passcode 986 212 8073 (pound sign must be entered). The virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: March 23, 2021.

Submit Written Comments to: Alicia Curry, Department of Labor and Industries (L&I), P.O. Box 44400, Olympia, WA 98504-4400, email Alicia.Curry@Lni.wa.gov, fax 360-902-5292, by 5 p.m., on March 9, 2021.

Assistance for Persons with Disabilities: Contact Alicia Curry, phone 360-902-6244, fax 360-902-5292, email Alicia.Curry@Lni.wa.gov, by February 23, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Due to technical difficulties at the originally scheduled hearing on January 27, 2021, which prevented public and committee member attendance, L&I is filing a continuance of the proposal to reschedule the public hearing date. The written comment period is also being extended through March 9, 2021.

The purpose of this rule making is to propose changes to FAS rules to increase fees by 5.91 percent. The fee increase is the maximum allowed by the state office of financial management for fiscal year 2021.

Reasons Supporting Proposal: The budget and projected revenue of the FAS program was evaluated and a fee increase is needed to support the cost of ongoing services. A fee increase will enable the program to continue providing quality and timely services to assure [ensure] the health and safety of Washington state citizens who work and live in factory-built housing and commercial structures

Statutory Authority for Adoption: Chapter 43.22 RCW, Department of labor and industries; and chapter 43.22A, Mobile and manufactured home installation.

Statute Being Implemented: Chapter 43.22 RCW, Department of labor and industries; and chapter 43.22A RCW, Mobile and manufactured home installation.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Shane Daugherty, program chief, Tumwater, Washington, 360-902-5222; Implementation and Enforcement: Steve Reinmuth, assistant director, Tumwater, Washington, 360-902-6348.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The rule is exempt from the cost-benefit analysis requirement under the Administrative Procedure Act RCW 34.05.328 (5)(b)(vi), rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

February 2, 2020
Joel Sacks
Director

OTS-2731.1

AMENDATORY SECTION (Amending WSR 20-04-081, filed 2/4/20, effective 3/6/20)

WAC 296-150C-3000 Commercial coach fees.

GENERAL INFORMATION	
Manufacture:	Manufacturer #
1. Building use:	2. Building occupancy:
3. Type of construction: VB	4. Square footage of building:
5. Valuation of the building shall be based on the following:	
• Square footage of the building multiplied by the amount in the BVD valuation table	\$
6. Total valuation:	\$
PERMIT FEE	
7. Calculate from building permit fee table using the total valuation	\$
STRUCTURAL PLAN REVIEW FEE*	
8. One year design review: (Valid for one year) multiply the total on line 7 by ((0.382)) 0.404...	\$
9. Master plan review: (Valid for the code cycle) multiply the total on line 7 by ((0.546)) 0.578.....	\$
* Minimum plan review fee is 2 1/2 hours x ((\$83.00)) \$87.90 per hour	
FIRE AND LIFE-SAFETY PLAN REVIEW FEE (if required)	
10. Fire and life-safety plan review:	
a. One year design—Multiply the total on line 7 by ((0.163)) 0.173.....	\$
b. Master plan design—Multiply the total on line 7 by ((0.273)) 0.289.....	\$
• Required for all structures that are more than 4,000 square feet and for all A and I occupancy	

PLUMBING PLAN-REVIEW FEE		
11.	Plumbing ((\$19.60) <u>\$20.70</u> + ((\$6.50) <u>\$6.80</u> per fixture	\$
12.	Medical gas ((\$19.60) <u>\$20.70</u> + ((\$6.50) <u>\$6.80</u> per gas outlet	\$
DESIGN RENEWAL OR ADDENDUM		
13.	((10.92) <u>11.56%</u> of building permit + ((\$83.00) <u>\$87.90</u>	\$
RESUBMITTAL		
14.	((10.92) <u>11.56%</u> of building permit + ((\$83.00) <u>\$87.90</u>	\$
ELECTRICAL PLAN-REVIEW FEE		
15.	See WAC 296-46B-906(9) for electrical review fees	
INSIGNIA FEES		
16.	FIRST SECTION	\$ ((24.90) <u>26.30</u>)
17.	EACH ADDITIONAL SECTION	\$ ((15.30) <u>16.20</u>)
TOTAL FEES		
18.	Total plan review fees: Add lines 8 or 9 and 10 through 15	\$
19.	Total fees due: Includes plan fees and insignia fees	\$
20.	Total amount paid	\$

Square Foot Construction Costs (BVD Table)^{a, b, c, and d}

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	211.15	203.98	198.73	190.05	178.25	173.30	183.31	162.97	156.05
A-1 Assembly, theaters, without stage	193.16	185.99	180.74	172.06	160.31	155.36	165.32	145.04	138.12
A-2 Assembly, nightclubs	163.22	158.56	154.17	148.00	138.96	135.24	142.52	126.06	121.36
A-2 Assembly, restaurants, bars, banquet halls	162.22	157.56	152.17	147.00	136.96	134.24	141.52	124.06	120.36
A-3 Assembly, churches	195.10	187.93	182.68	174.00	162.21	157.26	167.26	146.94	140.02
A-3 Assembly, general, community halls, libraries, museums	163.81	156.64	150.39	142.71	129.91	125.96	135.97	114.63	108.71
A-4 Assembly, arenas	192.16	184.99	178.74	171.06	158.31	154.36	164.32	143.04	137.12
B Business	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
E Educational	176.97	170.85	165.64	158.05	146.37	138.98	152.61	127.91	123.09
F-1 Factory and industrial, moderate hazard	97.87	93.28	87.66	84.46	75.44	72.26	80.79	62.17	58.48
F-2 Factory and industrial, low hazard	96.87	92.28	87.66	83.46	75.44	71.26	79.79	62.17	57.48
H-1 High hazard, explosives	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	N.P.
H-2, 3, 4 High hazard	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	52.53
H-5 HPM	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
I-1 Institutional, supervised environment	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
I-2 Institutional, hospitals	277.07	271.09	265.80	258.28	243.90	N.P.	252.23	227.88	N.P.
I-2 Institutional, nursing homes	193.00	187.02	181.74	174.22	160.98	N.P.	168.16	144.96	N.P.
I-3 Institutional, restrained	187.72	181.73	176.45	168.93	156.64	150.82	162.87	140.63	133.13
I-4 Institutional, day care facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
M Mercantile	121.57	116.92	111.53	106.36	96.96	94.25	100.88	84.07	80.36
R-1 Residential, hotels	166.21	160.43	155.99	149.29	137.39	133.80	145.70	123.43	119.10
R-2 Residential, multiple family	139.39	133.61	129.17	122.47	111.23	107.64	119.54	97.27	92.94
R-3 Residential, one and two family	131.18	127.60	124.36	121.27	116.43	113.53	117.42	108.79	101.90
R-4 Residential, care/assisted living facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
S-1 Storage, moderate hazard	90.74	86.15	80.53	77.33	68.49	65.31	73.66	55.22	51.53
S-2 Storage, low hazard	89.74	85.15	80.53	76.33	68.49	64.31	72.66	55.22	50.53
U Utility, miscellaneous	71.03	67.02	62.71	59.30	52.86	49.43	56.33	41.00	39.06

- a Private garages use utility, miscellaneous
- b Unfinished basements (all use group) = \$15.00 per sq. ft.
- c For shell only buildings deduct 20 percent
- d N.P. = not permitted

Building Permit Fees

Total Valuation	Fee
\$1.00 to \$500.00	\$23.50
\$501.00 to \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.65 for each additional \$1,000.00, or fraction thereof

INITIAL FILING FEE (first time applicants)	((\$41.00) \$43.40)
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (code cycle), 50% of permit fee × ((+092)) 1.156*	
INITIAL FEE - ONE YEAR DESIGN, 35% of permit fee × ((+092)) 1.156*	
RENEWAL FEE - 10% of permit fee × ((+092)) 1.156 +	((\$83.00) \$87.90)
RESUBMIT FEE - 10% of permit fee × ((+092)) 1.156 +	((\$83.00) \$87.90)
ADDENDUM (approval expires on same date as original plan) - 10% of permit fee × ((+092)) 1.156 +	((\$83.00) \$87.90)
ELECTRONIC PLAN SUBMITTAL FEE ((\$5.80) \$6.10 per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
PLUMBING PLAN FEE, ((\$19.60) \$20.70 + PER FIXTURE FEE of	((\$6.50) \$6.80)
MEDICAL GAS PLAN FEE, ((\$19.60) \$20.70 + PER OUTLET FEE of	((\$6.50) \$6.80)
Note: Mechanical systems are included in the primary plan fee	
FIRE SAFETY PLAN REVIEW AS REQUIRED (Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy)	
MASTER DESIGN - 25% of permit fee × ((+092)) 1.156	

One year design 15% of the permit fee × ((1.092)) 1.156	
ELECTRICAL PLAN REVIEW - Find fee @ http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN (minimum 3 hours)	(((\$83.00)) \$87.90 per hour
INITIAL FEE - ONE YEAR DESIGN (minimum 2 hours)	(((\$83.00)) \$87.90 per hour
RENEWAL FEE (minimum 1 hour)	(((\$83.00)) \$87.90 per hour
ADDENDUM (minimum 1 hour)	(((\$83.00)) \$87.90 per hour
PLANS APPROVED BY PROFESSIONALS - 10% of permit fee × ((1.092)) 1.156 +	(((\$83.00)) \$87.90
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS - 5% of permit fee × ((1.092)) 1.156 +	(((\$83.00)) \$87.90
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour** plus travel time* and mileage***)	(((\$83.00)) \$87.90
TRAVEL (Per hour)	(((\$83.00)) \$87.90
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	(((\$83.00)) \$87.90
TRAVEL (Per hour**)	(((\$83.00)) \$87.90
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
ALTERATION INSPECTION (one hour minimum + alteration insignia fee)	(((\$107.90)) \$114.20
INSIGNIA FEES:	
FIRST SECTION (NEW or ALTERATION)	(((\$24.90)) \$26.30
EACH ADDITIONAL SECTION (NEW or ALTERATION)	(((\$15.30)) \$16.20
REISSUED-LOST/DAMAGED	(((\$15.30)) \$16.20
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour** plus travel time** and mileage***)	(((\$83.00)) \$87.90
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	(((\$15.30)) \$16.20
REFUND FEE	(((\$27.30)) \$28.90

*Minimum plan review fee is 2 1/2 hours at the field technical service rate

**Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments

***Per state guidelines

****Actual charges incurred

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 20-04-081, § 296-150C-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, §

296-150C-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150C-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150C-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapter 43.22 RCW. WSR 07-19-086, § 296-150C-3000, filed 9/18/07, effective 10/19/07. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150C-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150C-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapter 43.22 RCW. WSR 05-23-002, § 296-150C-3000, filed 11/3/05, effective 12/4/05. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150C-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapter 43.22 RCW and 2003 c 291. WSR 05-01-102, § 296-150C-3000, filed 12/14/04, effective 2/1/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150C-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-150C-3000, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-150C-3000, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150C-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapters 43.22, 18.27, 70.87 and 19.28 RCW. WSR 99-12-080, § 296-150C-3000, filed 5/28/99, effective 6/28/99. Statutory Authority: Chapters 18.106, 18.27 and 43.22 RCW. WSR 98-12-041, § 296-150C-3000, filed 5/29/98, effective 6/30/98. Statutory Authority: RCW 70.87.030, 18.27.070, [18.27.]075, 43.22.350, [43.22.]355, [43.22.]434 and [43.22.]480(2). WSR 97-11-053, § 296-150C-3000, filed 5/20/97, effective 6/30/97. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150C-3000, filed 10/23/96, effective 11/25/96.]

OTS-2732.1

AMENDATORY SECTION (Amending WSR 20-04-081, filed 2/4/20, effective 3/6/20)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

GENERAL INFORMATION	
Manufacture:	Manufacturer #
1. Building use:	2. Building occupancy:
3. Type of construction:	4. Square footage of building:

5.	Valuation of the building shall be based on the following:		
	• Square footage of the building multiplied by the amount in the BVD valuation table .....	\$	.....
6.	Total valuation: .....	\$	.....
PERMIT FEE			
7.	Calculate from building permit fee table using the total valuation .....	\$	.....
STRUCTURAL PLAN REVIEW FEE*			
8.	One year design review: (Valid for one year) multiply the total on line 7 by ((0.382) <u>0.404</u> .....	\$	.....
9.	Master plan review: (Valid for the code cycle) multiply the total on line 7 by ((0.546) <u>0.578</u> .....	\$	.....
	* Minimum plan review fee is 2 1/2 hours x ((\$93.40) <u>\$98.90</u> per hour		
FIRE AND LIFE-SAFETY PLAN REVIEW FEE (if required)			
10.	Fire and life-safety plan review:		
a.	One year design—Multiply the total on line 7 by ((0.163) <u>0.173</u> .....	\$	.....
b.	Master plan design—Multiply the total on line 7 by ((0.273) <u>0.289</u> .....	\$	.....
	• Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy		
PLUMBING PLAN-REVIEW FEE			
11.	Plumbing ((\$19.60) <u>\$20.70</u> + ((\$6.50) <u>\$6.80</u> per fixture .....	\$	.....
12.	Medical gas ((\$19.60) <u>\$20.70</u> + ((\$6.50) <u>\$6.80</u> per gas outlet .....	\$	.....
DESIGN RENEWAL OR ADDENDUM			
13.	((10.92) <u>11.56%</u> of building permit + ((\$93.40) <u>\$98.90</u> .....	\$	.....
RESUBMITTAL			
14.	((10.92) <u>11.56%</u> of building permit + ((\$93.40) <u>\$98.90</u> .....	\$	.....
ELECTRICAL PLAN-REVIEW FEE			
15.	See WAC 296-46B-906(9) for electrical review fees		
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)			
16.	Notification to local enforcement agency fee:	\$	((40.30) <u>42.60</u>
INSIGNIA FEES			
17.	FIRST SECTION	\$	((298.70) <u>316.30</u>
18.	EACH ADDITIONAL SECTION	\$	((26.70) <u>28.20</u>
TOTAL FEES			
19.	Total plan review fees: Add lines 8 or 9 and 10 through 15 .....	\$	.....
20.	Total fees due: Includes plan fees, insignia fees, and NLEA fees .....	\$	.....
21.	Total amount paid .....	\$	.....

Square Foot Construction Costs (BVD Table)^{a, b, c, and d}

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	211.15	203.98	198.73	190.05	178.25	173.30	183.31	162.97	156.05
A-1 Assembly, theaters, without stage	193.16	185.99	180.74	172.06	160.31	155.36	165.32	145.04	138.12
A-2 Assembly, nightclubs	163.22	158.56	154.17	148.00	138.96	135.24	142.52	126.06	121.36
A-2 Assembly, restaurants, bars, banquet halls	162.22	157.56	152.17	147.00	136.96	134.24	141.52	124.06	120.36

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-3 Assembly, churches	195.10	187.93	182.68	174.00	162.21	157.26	167.26	146.94	140.02
A-3 Assembly, general, community halls, libraries, museums	163.81	156.64	150.39	142.71	129.91	125.96	135.97	114.63	108.71
A-4 Assembly, arenas	192.16	184.99	178.74	171.06	158.31	154.36	164.32	143.04	137.12
B Business	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
E Educational	176.97	170.85	165.64	158.05	146.37	138.98	152.61	127.91	123.09
F-1 Factory and industrial, moderate hazard	97.87	93.28	87.66	84.46	75.44	72.26	80.79	62.17	58.48
F-2 Factory and industrial, low hazard	96.87	92.28	87.66	83.46	75.44	71.26	79.79	62.17	57.48
H-1 High hazard, explosives	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	N.P.
H-2, 3, 4 High hazard	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	52.53
H-5 HPM	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
I-1 Institutional, supervised environment	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
I-2 Institutional, hospitals	277.07	271.09	265.80	258.28	243.90	N.P.	252.23	227.88	N.P.
I-2 Institutional, nursing homes	193.00	187.02	181.74	174.22	160.98	N.P.	168.16	144.96	N.P.
I-3 Institutional, restrained	187.72	181.73	176.45	168.93	156.64	150.82	162.87	140.63	133.13
I-4 Institutional, day care facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
M Mercantile	121.57	116.92	111.53	106.36	96.96	94.25	100.88	84.07	80.36
R-1 Residential, hotels	166.21	160.43	155.99	149.29	137.39	133.80	145.70	123.43	119.10
R-2 Residential, multiple family	139.39	133.61	129.17	122.47	111.23	107.64	119.54	97.27	92.94
R-3 Residential, one and two family	131.18	127.60	124.36	121.27	116.43	113.53	117.42	108.79	101.90
R-4 Residential, care/assisted living facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
S-1 Storage, moderate hazard	90.74	86.15	80.53	77.33	68.49	65.31	73.66	55.22	51.53
S-2 Storage, low hazard	89.74	85.15	80.53	76.33	68.49	64.31	72.66	55.22	50.53
U Utility, miscellaneous	71.03	67.02	62.71	59.30	52.86	49.43	56.33	41.00	39.06

- a Private garages use utility, miscellaneous
- b Unfinished basements (all use group) = \$15.00 per sq. ft.
- c For shell only buildings deduct 20 percent
- d N.P. = not permitted

Table 1-A - Building Permit Fees

Total Valuation	Fee
\$1.00 to \$500.00	\$23.50
\$501.00 to \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00

Total Valuation	Fee
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.65 for each additional \$1,000.00, or fraction thereof
INITIAL FILING FEE (first time applicants)	(((\$72.90)) \$77.20
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (code cycle), 50% of permit fee × ((+092)) 1.156*	
INITIAL FEE - ONE YEAR DESIGN, 35% of permit fee × ((+092)) 1.156*	
RENEWAL FEE - 10% of permit fee × ((+092)) 1.156 +	(((\$93.40)) \$98.90
RESUBMIT FEE - 10% of permit fee × ((+092)) 1.156 +	(((\$93.40)) \$98.90
ADDENDUM (approval expires on same date as original plan) - 10% of permit fee × ((+092)) 1.156 +	(((\$93.40)) \$98.90
ELECTRONIC PLAN SUBMITTAL FEE (((\$5.80)) \$6.10 per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
PLUMBING PLAN FEE, (((\$19.60)) \$20.70 + PER FIXTURE FEE of	(((\$6.50)) \$6.80
MEDICAL GAS PLAN FEE, (((\$19.60)) \$20.70 + PER OUTLET FEE of	(((\$6.50)) \$6.80
Note: Mechanical systems are included in the primary plan fee	
FIRE SAFETY PLAN REVIEW AS REQUIRED (Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy)	
MASTER DESIGN - 25% of permit fee × ((+092)) 1.156	
One year design - 15% of the permit fee × ((+092)) 1.156	
ELECTRICAL PLAN REVIEW - Find fees @ http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE-MASTER DESIGN (minimum 3 hours)	(((\$93.40)) \$98.90 per hour
INITIAL FEE-ONE YEAR DESIGN (minimum 2 hours)	(((\$93.40)) \$98.90 per hour
RENEWAL FEE (minimum 1 hour)	(((\$93.40)) \$98.90
ADDENDUM (minimum 1 hour)	(((\$93.40)) \$98.90 per hour
PLANS APPROVED BY DESIGN PROFESSIONALS - 10% of permit fee × ((+092)) 1.156 +	(((\$93.40)) \$98.90
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST THREE SETS - 5% of permit fee × ((+092)) 1.156 +	(((\$93.40)) \$98.90
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour** plus travel time** and mileage***)	(((\$93.40)) \$98.90
TRAVEL (Per hour**)	(((\$93.40)) \$98.90
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour**)	(((\$93.40)) \$98.90
TRAVEL (Per hour**)	(((\$93.40)) \$98.90
PER DIEM***	

HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
INSIGNIA FEES:	
FIRST SECTION	((\$298.70) \$316.30)
EACH ADDITIONAL SECTION	((\$26.70) \$28.20)
REISSUED-LOST/DAMAGED	((\$72.90) \$77.20)
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour** plus travel time** and mileage***)	((\$93.40) \$98.90)
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	((\$40.30) \$42.60)
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((\$14.90) \$15.70)
REFUND FEE	((\$27.30) \$28.90)

*Minimum plan review fee is 2 1/2 hours at the field technical service rate.

**Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

***Per state guidelines.

****Actual charges incurred.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 20-04-081, § 296-150F-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150F-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150F-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150F-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150F-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapter 43.22 RCW. WSR 07-05-063, § 296-150F-3000, filed 2/20/07, effective 4/1/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150F-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapter 43.22 RCW. WSR 05-23-002, § 296-150F-3000, filed 11/3/05, effective 12/4/05. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150F-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapter 43.22 RCW and 2003 c 291. WSR 05-01-102, § 296-150F-3000, filed 12/14/04, effective 2/1/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150F-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.340, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.480, and 43.22.485, 2002 c 268, and chapter 43.22 RCW. WSR 03-12-044, § 296-150F-3000, filed 5/30/03, effective 5/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150F-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapters 43.22, 18.27, 70.87 and 19.28 RCW. WSR 99-12-080, § 296-150F-3000, filed 5/28/99, effective 6/28/99. Statutory Authority: Chapters 18.106, 18.27 and 43.22 RCW. WSR 98-12-041, § 296-150F-3000, filed 5/29/98, effective 6/30/98. Statutory Authority: RCW 70.87.030, 18.27.070, [18.27.]075, 43.22.350, [43.22.]355, [43.22.]434 and

[43.22.]480(2). WSR 97-11-053, § 296-150F-3000, filed 5/20/97, effective 6/30/97. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150F-3000, filed 10/23/96, effective 11/25/96.]

OTS-2733.1

AMENDATORY SECTION (Amending WSR 18-24-102, filed 12/4/18, effective 1/4/19)

WAC 296-150I-3000 Penalties, fees, and refunds.

Penalties

(1) Monetary penalties for infractions listed in WAC 296-150I-0210 shall be assessed for each violation of chapter 43.22A RCW in the following amount:

(a) Failure to have a certified installer on the installation site whenever installation work is being performed:

First Final Violation	\$250.00
Each Additional Final Violation	\$1,000.00

(b) Failure to correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same:

First Final Violation	Warning
Second Final Violation	\$250.00
Third Final Violation	\$500.00
Each Additional Final Violation	\$1,000.00

(c) Failure by a certified installer to affix a certification tag to an installed manufactured/mobile home:

First Final Violation	Warning
Second Final Violation	\$250.00
Third Final Violation	\$500.00
Each Additional Final Violation	\$1,000.00

(d) Transfer of certification tag(s) from a certified installer to another certified installer without prior written approval of the department:

First Final Violation	Warning
Each Additional Final Violation	\$250.00

(e) Transfer of certification tag(s) from a certified installer to a noncertified installer:

First Final Violation to Each Contractor in Violation	\$250.00
Each Additional Final Violation to Each Contractor in Violation	\$1,000.00

(f) Transfer of unused installer certification tags by a manufactured home retailer to a new ownership without prior written approval of the department:

First Final Violation	Warning
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Each Additional Final Violation \$250.00

Fees and Refunds

The following fees are payable to the department in advance:

Training and certification	((\$270.40)) \$286.30
Training only 10 hours	((\$135.20)) \$143.10
Manufactured/mobile home installation inspector training	((\$135.20)) \$143.10
Refund	((\$27.00)) \$28.50
Certification renewal	((\$135.20)) \$143.10
Continuing education class	((\$54.00)) \$57.10
Retake failed examination and training	((\$40.50)) \$42.80
Manufactured home installer training manual	((\$13.50)) \$14.20
Installer certification tag	((\$9.40)) \$9.90

(2) The department shall refund fees paid for training and certification or certification renewal as a manufactured home installer if the application is denied for failure of the applicant to comply with the requirements of chapter 43.22A RCW or these rules.

(3) If an applicant has paid fees to attend training or to take an examination and is unable to attend the scheduled training or examination, the applicant may:

- (a) Change to another scheduled training and examination; or
- (b) Request a refund.

(4) An applicant who fails the examination shall not be entitled to a refund.

[Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150I-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22A RCW. WSR 17-23-173, § 296-150I-3000, filed 11/21/17, effective 1/1/18. Statutory Authority: Chapter 43.22A RCW and 2009 c 464 [564]. WSR 10-06-043, § 296-150I-3000, filed 2/23/10, effective 4/1/10. Statutory Authority: Chapter 43.22A RCW and 2007 c 432. WSR 08-12-040, § 296-150I-3000, filed 5/30/08, effective 6/30/08.]

OTS-2734.1

AMENDATORY SECTION (Amending WSR 20-04-081, filed 2/4/20, effective 3/6/20)

WAC 296-150M-3000 Manufactured/mobile home fees.

DESIGN PLAN FEES:	
STRUCTURAL ALTERATION	((\$181.50)) <u>\$192.20</u>

RESUBMITTAL FEE	((\$80.20)) <u>\$84.90</u>
ADDENDUM (Approval expires on the same date as original plan.)	((\$80.20)) <u>\$84.90</u>
ELECTRONIC PLAN SUBMITTAL FEE ((\$5.60)) <u>\$5.90</u> per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT INSPECTION FEES:	
Combination permit - Mechanical and electrical inspections	((\$198.30)) <u>\$210.00</u>
Heat pump	((\$198.30)) <u>\$210.00</u>
Air conditioning	((\$198.30)) <u>\$210.00</u>
Air conditioning with replacement furnace	((\$198.30)) <u>\$210.00</u>
Gas furnace installation includes gas piping	((\$198.30)) <u>\$210.00</u>
Fire safety inspection	((\$198.30)) <u>\$210.00</u>
MECHANICAL	((\$88.10))
Gas*** Piping	((\$88.10)) <u>\$93.30</u>
Wood Stove	((\$88.10)) <u>\$93.30</u>
Pellet Stove	((\$88.10)) <u>\$93.30</u>
Gas*** Room Heater	((\$88.10)) <u>\$93.30</u>
Gas*** Decorative Appliance	((\$88.10)) <u>\$93.30</u>
Range: Changing from electric to gas***	((\$88.10)) <u>\$93.30</u>
Gas*** Water Heater Replacement	((\$66.00)) <u>\$69.90</u>
ELECTRICAL	((\$110.30))
Electric Water Heater Replacement	((\$110.30)) <u>\$116.80</u>
Electric Water Heater replacing Gas*** Water Heater	((\$110.30)) <u>\$116.80</u>
Each added or modified 120 volt circuit (maximum charge is two circuits)	((\$110.30)) <u>\$116.80</u>
Each added 240 volt circuit (for other than Heat Pumps, Air Conditioners, Furnaces, Water Heaters, Ranges, Hot Tubs or Spas)	((\$110.30)) <u>\$116.80</u>
Hot Tub or Spa (power from home electrical panel)	((\$110.30)) <u>\$116.80</u>
Replace main electrical panel/permanently installed transfer equipment	((\$110.30)) <u>\$116.80</u>
Low voltage fire/intrusion alarm	((\$110.30)) <u>\$116.80</u>
Any combination of Furnace, Range and Water Heater changing from electric to gas***	((\$110.30)) <u>\$116.80</u>
PLUMBING	
Fire sprinkler system	((\$247.80)) <u>\$262.40</u>
Each added fixture	((\$66.00)) <u>\$69.90</u>
Replacement of water piping system (this includes two inspections)	((\$221.20)) <u>\$234.20</u>
STRUCTURAL	
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)	((\$98.90)) <u>\$104.70</u>
Reroofs (may require a plan review)	((\$176.70)) <u>\$187.10</u>
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)	((\$176.70)) <u>\$187.10</u>
Other structural changes (may require a plan review)	((\$176.70)) <u>\$187.10</u>
MISCELLANEOUS	
OTHER REQUIRED INSPECTIONS (Per hour*)	((\$72.40)) <u>\$76.60</u>
ALL REINSPECTIONS (Per hour*)	((\$72.40)) <u>\$76.60</u>
Refund	((\$21.90)) <u>\$23.10</u>
INSIGNIA FEES:	
REISSUED - LOST/DAMAGED	((\$21.90)) <u>\$23.10</u>
IPIA	
DEPARTMENT AUDIT FEES	
REGULARLY SCHEDULED IPIA AUDIT:	
First inspection on each section (one time only)	((\$36.30)) <u>\$38.40</u>
Second and succeeding inspections of unlabeled sections (Per hour*)	((\$80.20)) <u>\$84.90</u>
OTHER IPIA FEES:	
Red tag removal during a regularly scheduled IPIA audit (Per hour*separate from other fees)	((\$80.20)) <u>\$84.90</u>
Red tag removal at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	((\$80.20)) <u>\$84.90</u>
Increased frequency surveillance (Per hour* plus travel time* and mileage**)	((\$80.20)) <u>\$84.90</u>
Attendance at manufacturers training classes (Per hour* only)	((\$80.20)) <u>\$84.90</u>
Subpart "I" investigations (Per hour* plus travel time* and mileage**)	((\$80.20)) <u>\$84.90</u>

Alterations to a labeled unit (Per hour* plus travel time* and mileage**)	((\$80.20) <u>\$84.90</u>)
IPIA Issues/Responses (Per hour* Plus travel time* and mileage**)	((\$80.20) <u>\$84.90</u>)
Monthly surveillance during a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	((\$80.20) <u>\$84.90</u>)
Monthly surveillance at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	((\$80.20) <u>\$84.90</u>)
Plant certifications, recertifications and addenda updates (Per hour* plus travel time* and mileage** per each inspector)	((\$80.20) <u>\$84.90</u>)
Response to HBT Audit during a regularly scheduled IPIA audit (Per hour*)	((\$80.20) <u>\$84.90</u>)
Response to HBT Audit at a time other than a regularly scheduled IPIA audit (Per hour* plus travel time* and mileage**)	((\$80.20) <u>\$84.90</u>)
Alternative construction (AC) letter inspections at placement site (Per hour* plus travel time* and mileage**)	((\$80.20) <u>\$84.90</u>)
Replacement of HUD labels (Per hour* plus travel time* and mileage**)	((\$80.20) <u>\$84.90</u>)
State Administrative Agency (SAA) inspection fee (Per hour* plus travel time* and mileage**)	((\$80.20) <u>\$84.90</u>)
State Administrative Agency (SAA) dispute resolution filing fee	((\$80.20) <u>\$84.90</u>)
State Administrative Agency (SAA) dispute resolution (Per hour*)	((\$80.20) <u>\$84.90</u>)
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour plus travel time* and mileage**)	((\$74.50) <u>\$78.90</u>)
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((\$14.60) <u>\$15.40</u>)
VARIANCE INSPECTION FEE	((\$176.70) <u>\$187.10</u>)
HOMEOWNER REQUESTED INSPECTION	((\$176.70) <u>\$187.10</u>)
DECERTIFICATION OF A MOBILE/MANUFACTURED HOME	((\$176.70) <u>\$187.10</u>)
DEMOLITION OF A MOBILE/MANUFACTURED HOME	((\$176.70) <u>\$187.10</u>)
ENERGY CONSERVATION PERMIT	((\$30.10) <u>\$31.80</u>)

NOTE: Local jurisdictions may have other fees that apply.

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Gas means all gases; natural, propane, etc.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 20-04-081, § 296-150M-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150M-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150M-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150M-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150M-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapter 43.22 RCW. WSR 07-05-063, § 296-150M-3000, filed 2/20/07, effective 4/1/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150M-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapter 43.22 RCW and 2005 c 399. WSR 05-24-020, § 296-150M-3000, filed 11/29/05, effective 1/1/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150M-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150M-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.340, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.480, and 43.22.485, 2002 c 268, and chapter 43.22 RCW. WSR 03-12-044, § 296-150M-3000, filed 5/30/03, effective 5/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150M-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 43.22.340, 43.22.350, 43.22.355, 43.22.360, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.450, 43.22.480, and 43.22.485. WSR 00-17-148, § 296-150M-3000,

filed 8/22/00, effective 9/30/00. Statutory Authority: Chapters 43.22, 18.27, 70.87 and 19.28 RCW. WSR 99-12-080, § 296-150M-3000, filed 5/28/99, effective 6/28/99. Statutory Authority: Chapters 18.106, 18.27 and 43.22 RCW. WSR 98-12-041, § 296-150M-3000, filed 5/29/98, effective 6/30/98. Statutory Authority: RCW 70.87.030, 18.27.070, [18.27.]075, 43.22.350, [43.22.]355, [43.22.]434 and [43.22.]480(2). WSR 97-11-053, § 296-150M-3000, filed 5/20/97, effective 6/30/97. Statutory Authority: RCW 43.22.340, [43.22.]355, [43.22.]360, [43.22.]432, [43.22.]440 and [43.22.]480. WSR 96-21-146, § 296-150M-3000, filed 10/23/96, effective 11/25/96.]

OTS-2735.1

AMENDATORY SECTION (Amending WSR 20-04-081, filed 2/4/20, effective 3/6/20)

WAC 296-150P-3000 Recreational park trailer fees.

INITIAL FILING FEE	((\$37.80)) <u>\$40.00</u>
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	((\$107.20)) <u>\$113.50</u>
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	((\$141.80)) <u>\$150.10</u>
RESUBMITTAL FEE	((\$76.70)) <u>\$81.20</u>
ADDENDUM (Approval expires on same date as original plan.)	((\$76.70)) <u>\$81.20</u>
ELECTRONIC PLAN SUBMITTAL FEE ((\$5.60)) <u>\$5.90</u> per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	((\$76.70)) <u>\$81.20</u>
TRAVEL (per hour)*	((\$76.70)) <u>\$81.20</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	((\$76.70)) <u>\$81.20</u>
TRAVEL (per hour)*	((\$76.70)) <u>\$81.20</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	((\$114.50)) <u>\$121.20</u>
INSIGNIA FEES:	
STATE CERTIFIED	((\$27.30)) <u>\$28.90</u>
ALTERATION	((\$37.80)) <u>\$40.00</u>
REISSUED-LOST/DAMAGED	((\$14.00)) <u>\$14.80</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	((\$76.70)) <u>\$81.20</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((\$14.20)) <u>\$15.00</u>

REFUND FEE

~~(\$27.30)~~ \$28.90

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
 **Per state guidelines.
 ***Actual charges incurred.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 20-04-081, § 296-150P-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150P-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150P-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150P-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150P-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150P-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-150P-3000, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-150P-3000, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150P-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 43.22.340, 43.22.350, 43.22.355, 43.22.360, 43.22.400, 43.22.432, 43.22.433, 43.22.434, 43.22.450, 43.22.480, and 43.22.485. WSR 00-17-148, § 296-150P-3000, filed 8/22/00, effective 9/30/00. Statutory Authority: Chapters 43.22, 18.27, 70.87 and 19.28 RCW. WSR 99-12-080, § 296-150P-3000, filed 5/28/99, effective 6/28/99. Statutory Authority: Chapters 18.106, 18.27 and 43.22 RCW. WSR 98-12-041, § 296-150P-3000, filed 5/29/98, effective 6/30/98. Statutory Authority: RCW 43.22.340 and 43.22.420. WSR 97-16-043, § 296-150P-3000, filed 7/31/97, effective 12/1/97.]

OTS-2736.1

AMENDATORY SECTION (Amending WSR 20-04-081, filed 2/4/20, effective 3/6/20)

WAC 296-150T-3000 Factory-built temporary worker housing fees.

INITIAL FILING FEE	(\$57.50) \$60.80
DESIGN PLAN FEES:	
INITIAL ONE YEAR DESIGN	(\$166.80) \$176.60
RENEWAL FEE	(\$57.50) \$60.80
RESUBMIT FEE	(\$83.00) \$87.90
ADDENDUM (Approval expires on same date as original plan)	(\$83.00) \$87.90
ELECTRONIC PLAN SUBMITTAL FEE (\$5.70) \$6.00 per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	

Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	((\$98.40) <u>\$104.20</u>)
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	((\$15.30) <u>\$16.20</u>)
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	((\$83.00) <u>\$87.90</u>)
TRAVEL (Per hour)*	((\$83.00) <u>\$87.90</u>)
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	((\$83.00) <u>\$87.90</u>)
TRAVEL (Per hour*)	((\$83.00) <u>\$87.90</u>)
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	((\$234.00) <u>\$247.80</u>)
EACH ADDITIONAL SECTION	((\$22.50) <u>\$23.80</u>)
REISSUED-LOST/DAMAGED	((\$57.50) <u>\$60.80</u>)
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders 200 Amperage plus Service/feeder	((\$242.40) <u>\$256.70</u>)
Additional Feeder	((\$45.90) <u>\$48.60</u>)
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders 200 Amperage plus Service/feeder	((\$128.50) <u>\$136.00</u>)
Additional Feeder	((\$32.50) <u>\$34.40</u>)
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	((\$83.00) <u>\$87.90</u>)
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free per year)	((\$15.30) <u>\$16.20</u>)
REFUND FEE	((\$27.30) <u>\$28.90</u>)

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 20-04-081, § 296-150T-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150T-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150T-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150T-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150T-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150T-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150T-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapter 43.22 RCW and 2003 c 291. WSR 05-01-102, § 296-150T-3000, filed 12/14/04, effective 2/1/05.]

Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150T-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-150T-3000, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-150T-3000, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150T-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: RCW 43.22.480. WSR 99-12-079, § 296-150T-3000, filed 5/28/99, effective 6/28/99.]

OTS-2737.1

AMENDATORY SECTION (Amending WSR 20-04-081, filed 2/4/20, effective 3/6/20)

**WAC 296-150V-3000 Conversion vendor units and medical units—
Fees.**

INITIAL FILING FEE	((\$41.00) <u>\$43.40</u>)
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	((\$284.60) <u>\$301.40</u>)
INITIAL FEE - ONE YEAR DESIGN	((\$116.30) <u>\$123.10</u>)
RENEWAL FEE	((\$49.30) <u>\$52.20</u>)
RESUBMIT FEE	((\$83.00) <u>\$87.90</u>)
ADDENDUM (Approval expires on same date as original plan)	((\$83.00) <u>\$87.90</u>)
ELECTRONIC PLAN SUBMITTAL FEE ((\$5.70) <u>\$6.00</u> per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW - For medical units, find fees at http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	((\$126.80) <u>\$134.20</u>)
INITIAL FEE - ONE YEAR DESIGN	((\$76.60) <u>\$81.10</u>)
RENEWAL FEE	((\$76.60) <u>\$81.10</u>)
ADDENDUM	((\$76.60) <u>\$81.10</u>)
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	((\$15.30) <u>\$16.20</u>)
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	((\$83.00) <u>\$87.90</u>)
TRAVEL (Per hour)*	((\$83.00) <u>\$87.90</u>)
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	((\$124.30) <u>\$131.60</u>)

INSIGNIA FEES:	
FIRST SECTION/ALTERATION	((\$23.80) <u>\$25.20</u>)
REISSUED-LOST/DAMAGED	((\$15.30) <u>\$16.20</u>)
EXEMPT	((\$41.00) <u>\$43.40</u>)
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	((\$83.00) <u>\$87.90</u>)
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((\$15.30) <u>\$16.20</u>)
REFUND FEE	((\$27.30) <u>\$28.90</u>)

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

[Statutory Authority: Chapters 43.22 and 43.22A RCW. WSR 20-04-081, § 296-150V-3000, filed 2/4/20, effective 3/6/20. Statutory Authority: Chapters 18.27, 70.87, 43.22, and 43.22A RCW. WSR 18-24-102, § 296-150V-3000, filed 12/4/18, effective 1/4/19. Statutory Authority: Chapter 43.22 RCW and 2011 1st sp.s. c 50. WSR 12-06-069, § 296-150V-3000, filed 3/6/12, effective 4/30/12. Statutory Authority: Chapters 18.106, 43.22 RCW, 2008 c 285 and c 329. WSR 08-12-042, § 296-150V-3000, filed 5/30/08, effective 6/30/08. Statutory Authority: Chapters 18.27, 18.106, 43.22, and 70.87 RCW. WSR 07-11-128, § 296-150V-3000, filed 5/22/07, effective 6/30/07. Statutory Authority: Chapters 18.106, 43.22, and 70.87 RCW. WSR 06-10-066, § 296-150V-3000, filed 5/2/06, effective 6/30/06. Statutory Authority: Chapter 43.22 RCW. WSR 05-23-002, § 296-150V-3000, filed 11/3/05, effective 12/4/05. Statutory Authority: Chapters 18.27, 43.22, and 70.87 RCW. WSR 05-12-032, § 296-150V-3000, filed 5/24/05, effective 6/30/05. Statutory Authority: Chapter 43.22 RCW and 2003 c 291. WSR 05-01-102, § 296-150V-3000, filed 12/14/04, effective 2/1/05. Statutory Authority: Chapters 18.27 and 43.22 RCW. WSR 04-12-048, § 296-150V-3000, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 70.87.030, 18.106.070, 18.106.125, 2001 c 7, and chapters 18.106, 43.22, and 70.87 RCW. WSR 03-12-045, § 296-150V-3000, filed 5/30/03, effective 6/30/03. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.040, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 7, 2002 c 249, and chapters 19.28, 43.22, 18.27, and 70.87 RCW. WSR 02-12-022, § 296-150V-3000, filed 5/28/02, effective 6/28/02. Statutory Authority: RCW 43.22.350, 43.22.434, 43.22.480, 43.22.500, 18.27.070, 18.27.075, 70.87.030, 19.28.041, 19.28.051, 19.28.101, 19.28.121, 19.28.161, 19.28.201, 19.28.211, 19.28.341, 2001 c 159, and chapters 43.22, 19.28, 18.27, and 70.87 RCW. WSR 01-12-035, § 296-150V-3000, filed 5/29/01, effective 6/29/01. Statutory Authority: Chapter 43.22 RCW. WSR 99-18-069, § 296-150V-3000, filed 8/31/99, effective 10/1/99.]

WSR 21-04-139

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 2, 2021, 4:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-23-120.

Title of Rule and Other Identifying Information: WAC 308-104-019
Renewal of driver's license or identicard by electronic commerce.

Hearing Location(s): On March 9, 2021, at 1:00 p.m., telephonic public rule-making hearing will be conducted remotely over the phone, call-in number 360-407-3815, conference ID 2868139. In response to the coronavirus disease 2019 (COVID-19) public health emergency, the department of licensing (DOL) will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state. A telephonic public hearing, without a physical space, will be held instead. Presenters and staff will participate remotely. The public may call into the hearing using the information provided for the telephonic hearing.

Date of Intended Adoption: March 10, 2021.

Submit Written Comments to: Ellis Starrett, 1125 Washington Street S.E., P.O. Box 9030, Olympia, WA 98507-9030, email rulescoordinator@dol.wa.gov, by March 9, 2021.

Assistance for Persons with Disabilities: Contact Ellis Starrett, phone 360-902-3846, email estarrett@dol.wa.gov, by March 1, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule change would allow persons under twenty-five years of age to renew their driver's license or identicard online.

Reasons Supporting Proposal: This rule change is necessary to allow greater access to the department's online services for driver's license and identicard renewals. Owing to public health guidelines, the department must operate physical locations at fifty percent capacity. The rule change will also provide more convenient services for customers while preserving public safety.

Statutory Authority for Adoption: RCW 46.01.110, 46.20.120.

Statute Being Implemented: Not applicable.

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

Name of Proponent: DOL, governmental.

Name of Agency Personnel Responsible for Drafting: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-3846; Implementation: Charlotte Anderson, 719 Sleater-Kinney Road S.E., Suite 108, Lacey, WA 98503, 360-902-3766; and Enforcement: Gilbert De Leon III, 12801 East Sprague Avenue, Spokane, WA 99216, 509-921-2383.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule change eases the requirements on customers while not requiring them to change any of their current practices while accessing our services. They do not impose additional costs, require additional paperwork, or place additional barriers/burdens on our customers. This rule change would expand the ability for customers to renew online by allowing those who are under twenty-four to renew driver's licenses and identicard[s] online.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how

costs were calculated. Businesses should not be impacted by this rule change. This rule impacts individuals who have a valid Washington state identicard or driver's license and are under twenty-four. This rule change will not impose a cost on those impacted by the rule change.

February 2, 2021
Damon Monroe
Rules Coordinator

OTS-2910.1

AMENDATORY SECTION (Amending WSR 15-09-032, filed 4/9/15, effective 5/10/15)

WAC 308-104-019 Renewal of driver's license or identicard by electronic commerce—Eligibility. An applicant for a driver's license renewal or identicard renewal may apply by electronic commerce if permitted under this section.

(1) A person whose valid driver's license is about to expire may be allowed to renew by electronic commerce if the person:

(a) Is eligible to renew his or her driver's license by electronic commerce under the provisions of RCW 46.20.120 (3)(b) or (4)(b);

(b) Has previously been issued a digital driver's license;

(c) Is (~~at least twenty-four and~~) not more than seventy years of age;

(d) Has a valid Social Security number on file with the department;

(e) Has a valid mailing address on his or her driving record as maintained by the department;

(f) Does not have a commercial driver's license, instruction permit, or agricultural permit;

(g) Has not paid a fee owed to the department with a check that has been dishonored;

(h) Has not failed to appear, respond, or comply with the terms of or in response to a traffic citation or notice of traffic infraction; and

(i) Does not have any actions pending against his or her driver's license or driving privileges.

(2) A person applying for driver's license renewal by electronic commerce must:

(a) Certify that he or she has had no mental or physical condition or is not taking any medication which could impair his or her ability to operate a motor vehicle safely;

(b) Make the necessary certification under WAC 308-104-010(2); and

(c) Complete the required application and pay all applicable fees.

(3) A person whose valid identicard is about to expire may renew by electronic commerce if the person:

(a) Is eligible to renew his or her identicard by electronic commerce under the provisions of RCW 46.20.117 (3)(b); and

(b) (~~Is at least twenty-four years of age; and~~

~~(e-))~~ Has previously been issued a digital identicard.

(4) A person applying for identicard renewal by electronic commerce must complete the required application and pay all applicable fees.

(5) The department may specify the means and establish procedures by which a person may make an application under this section.

[Statutory Authority: RCW 46.01.110, 46.20.120. WSR 15-09-032, § 308-104-019, filed 4/9/15, effective 5/10/15. Statutory Authority: RCW 46.01.110, 46.20.117, and 46.20.120. WSR 10-15-019, § 308-104-019, filed 7/9/10, effective 8/9/10. Statutory Authority: RCW 46.61.110, 46.20.041, 46.20.091, 46.20.120, and 46.20.130. WSR 09-16-012, § 308-104-019, filed 7/23/09, effective 8/23/09. Statutory Authority: RCW 46.01.110 and 46.20.202. WSR 07-22-031, § 308-104-019, filed 10/29/07, effective 11/29/07. Statutory Authority: RCW 46.01.110. WSR 04-20-012, § 308-104-019, filed 9/24/04, effective 10/25/04.]

WSR 21-04-141
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed February 3, 2021, 9:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-23-119.

Title of Rule and Other Identifying Information: WAC 415-501-485

How do I obtain a distribution?

Hearing Location(s): On March 9, 2021, at 2:00 p.m. The hearing will be conducted by telephone conference only, 360-407-3830 or 855-682-0796 (toll free), conference ID 1360562.

Date of Intended Adoption: March 10, 2021.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email drs.rules@drs.wa.gov, by March 8, 2021.

Assistance for Persons with Disabilities: Contact Jilene Siegel, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, by March 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify distribution rules for deferred compensation program (DCP) customers who return to covered employment.

Reasons Supporting Proposal: This clarification describes whether a distribution from a member's DCP account will be paid or suspended upon the member's return to employment with an employer that participates in the DCP program.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.50.770.

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

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Seth Miller, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7304.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(a)(i) does not apply to this proposed rule and is not voluntarily made applicable by the agency.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

February 3, 2021
Jilene Siegel
Rules Coordinator

OTS-2882.1

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-485 How do I obtain a distribution? Distribution from the plan is governed by Internal Revenue Code Sections 401 (a) (9) and 457(d); the treasury regulations interpreting these sections; and these rules to the extent they are not inconsistent with the Internal Revenue Code. The options for distribution are available from the department's designated record keeper.

(1) **Date of distribution.** You may choose the date on which to begin distribution from your deferred compensation account, subject to the requirements in (a) through (c) of this subsection.

(a) **Earliest date.** You may not begin distribution prior to your termination of employment, with the following exceptions:

(i) A distribution for an unforeseeable emergency under WAC 415-501-510;

(ii) A voluntary in-service distribution under subsection (4) of this section;

(iii) A distribution from funds that were rolled into the deferred compensation account (may be subject to tax penalties); or

(iv) An in-service distribution in any calendar year in which you will reach age seventy and one-half or more.

(b) **Latest date.** You must begin distribution on or before April 1st of the calendar year following the latter of:

(i) The calendar year in which you reach age seventy-two; or

(ii) The calendar year in which you retire.

(c) If you do not choose a distribution date, the department will begin distribution according to the minimum distribution requirements in IRC Section 401 (a) (9).

(2) **Method of distribution.** Payment options include a lump sum payment, partial lump sum payment, (~~periodic~~) installment payments, or an annuity purchase.

Beginning at age seventy-two or when you terminate employment, whichever comes later, payment must be in an amount to satisfy minimum distribution requirements in IRC Section 401 (a) (9).

(3) **Voluntary in-service distribution at any age.** You may choose to withdraw the total amount payable to you under the plan while you are employed if the following three requirements are met:

(a) Your entire account value does not exceed five thousand dollars;

(b) You have not previously received an in-service distribution; and

(c) You have made no deferrals during the two-year period ending on the date of the in-service distribution.

(4) **Unforeseeable emergencies.** See WAC 415-501-510.

(5) **Rehire.** If you (~~begin to receive distributions~~) submit an immediate lump sum or partial distribution request and the request is received in good order prior to being rehired, your distribution will be processed even if you become rehired with a DCP employer. If you are receiving installment payments or have requested to receive installment payments and then return to employment with a DCP employer, (~~distributions~~) your payments from your DCP account will cease. You may request a distribution when you are again eligible consistent with these rules.

[Statutory Authority: RCW 41.50.050. WSR 20-17-006, § 415-501-485, filed 8/5/20, effective 9/5/20. Statutory Authority: RCW 41.50.050(5).]

WSR 14-10-045, § 415-501-485, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 41.50.780(10). WSR 06-04-058, § 415-501-485, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 41.50.050(5), 41.50.780(10), and 41.50.770. WSR 04-22-053, § 415-501-485, filed 10/29/04, effective 11/29/04. Statutory Authority: RCW 41.50.050(5), 41.50.030(2), 41.50.088(2), 41.50.770, and 41.50.780, 26 U.S.C. (Internal Revenue Code) and related tax regulations. WSR 02-01-121, § 415-501-485, filed 12/19/01, effective 1/1/02. Statutory Authority: RCW 41.50.770, [41.50.]780 and 41.50.050. WSR 00-11-104, amended and recodified as § 415-501-485, filed 5/18/00, effective 6/18/00. Statutory Authority: RCW 41.50.050 and 41.50.780(11). WSR 96-16-020, § 415-512-085, filed 7/29/96, effective 7/29/96.]