

WSR 23-12-072
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed June 6, 2023, 8:51 a.m.]

Title of Rule and Other Identifying Information: Independent medical examinations (IME)—Recordings. Chapter 296-23 WAC, Radiology, radiation therapy, nuclear medicine, pathology, hospital, chiropractic, physical therapy, drugless therapeutics and nursing—Drugless therapeutics, etc. Repealing WAC 296-23-367 May the worker videotape or audiotape the independent medical examination?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SHB 1068 was adopted into law by the legislature effective July 23, 2023, requiring current rules be updated to align with changes made to RCW 51.36.070. The statute indicates workers have the right to record the audio, video, or both, of all IMEs ordered under this statute, RCW 51.32.110, and by the board of industrial insurance appeals. The current rule states video and audio recording for an IME isn't allowed. This rule needs to be repealed, as the statute update invalidates the rule.

Reasons Supporting Proposal: With the update to the statute, the rule will be incorrect and obsolete.

Statutory Authority for Adoption: RCW 51.04.020 and 51.04.030.

Statute Being Implemented: RCW 51.36.070.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Suzy Campbell, Tumwater, Washington, 360-902-5003; Implementation: Debra Hatzialexiou, Tumwater, Washington, 360-902-6695; and Enforcement: Mike Ratko, Tumwater, Washington, 360-902-4997.

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

The rule is no longer necessary because of changed circumstances.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The rule is no longer necessary because of changed circumstances.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Suzy Campbell, Department of Labor and Industries, Insurance Services, Legal Services, P.O. Box 44270, Olympia, WA 98504-4270, phone 360-902-5003, fax 360-902-5029, email suzanne.campbell@lni.wa.gov, AND RECEIVED BY August 7, 2023.

June 6, 2023
Joel Sacks
Director

OTS-4558.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-23-367 May the worker videotape or audiotape
the independent medical examination?