

**WSR 23-12-040**  
**PROPOSED RULES**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed May 30, 2023, 2:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-08-073.

Title of Rule and Other Identifying Information: Foster parent program, WAC 352-32-253.

Hearing Location(s): On July 13, 2023, at 9:00 a.m., at Ocean Shores Convention Center, 120 West Chance A La Mer N.W., Ocean Shores, WA 98569.

Date of Intended Adoption: July 13, 2023.

Submit Written Comments to: Ariel Ryon, 1111 Israel Road S.W., Tumwater, WA 98501-6512, email arielmarie.ryon@parks.wa.gov, by July 7, 2023.

Assistance for Persons with Disabilities: Contact Becki Ellison, phone 360-902-8502, fax 360-586-0355, TTY 711, email becki.ellison@parks.wa.gov, by July 7, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update WAC to reflect requirement of state parks-issued pass for use of program, effective June 2024.

Reasons Supporting Proposal: Update will allow easier program access to eligible families, streamline the in-park verification process, and align with RCW 79A.05.065.

Statutory Authority for Adoption: RCW 79A.05.065.

Statute Being Implemented: RCW 79A.05.065.

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: State parks will begin issuing the foster family pass June 2023, as authorized by RCW 79A.05.065. Program users will be able to use currently accepted documentation or the state parks issued pass through May 2024. Effective June 2024, only the state parks-issued pass will be accepted to access program benefits.

Name of Agency Personnel Responsible for Drafting: Keri Murphy, 1111 Israel Road S.W., Tumwater, 360-902-8518; Implementation: Ariel Ryon, 1111 Israel Road S.W., Tumwater, 360-902-8603; and Enforcement: Ariel Ryon and park staff, multiple locations, 360-902-8603.

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. Incorporates without material change, RCW 79A.05.065 (4) (a).

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

May 30, 2023  
Valeria Veasley  
Management Analyst

OTS-4535.2

AMENDATORY SECTION (Amending WSR 19-04-075, filed 2/1/19, effective 3/4/19)

**WAC 352-32-253 Foster ((parent)) family program.** (1) Any Washington state resident who provides out-of-home care to a child as either a current licensed foster family home (~~((or a person related to the child is entitled to))~~) or kinship caregiver under RCW 74.13.600 when recreating with the child receiving out-of-home care, is entitled to apply for a Washington State Parks Foster Home Pass which provides day-use vehicle access to parks and free camping for two consecutive years.

(2) To receive a Foster Family Pass, the applicant must submit documents from one of the following categories:

(a) Caregiver ID card or foster license issued by the department of children, youth, and families, an award letter or TANF child-only grant from the department of social and health services, or verification of kinship caregiver eligibility from a sovereign tribal government; or

(b) Two of the following documents. A court order, tax return with both the parent and child's name, lease agreement with both the parent and child's name, or verification from a kinship navigator program.

(3) To use a campsite, the qualified resident shall:

(a) If the park is subject to the state parks reservation system, ((foster parents)) families will make reservations through the reservation services call center or online reservations system, pay the reservation fee, and show their foster home license ((or foster parent)), caregiver ID card, or valid Washington State Parks Foster Family Pass, along with their Washington state driver license or photo ID upon arrival at the park(s). Effective June 1, 2024, only a valid Washington State Parks Foster Family Pass with driver license or photo ID will be accepted.

(b) For nonreservation parks, ((the foster parents)) families, upon arrival at the park, will show their foster home license ((or foster parent)), caregiver ID card, or a valid Washington State Parks Foster Family Pass, along with their Washington state driver((s)) license or photo ID. Effective June 1, 2024, only a valid Washington State Parks Foster Family Pass with driver license or photo ID will be accepted.

((+2)) (4) The foster parent ((or relative)) or kinship caregiver to the child and the child receiving out-of-home care must be present for the duration of the stay.

((+3)) (5) Violations or abuse of these privileges((r)) granted under the Foster Family Pass including, but not limited to, the list below, may be subject to revocation, suspension of their privileges and/or assessed other fees.

(a) Duplicate or multiple reservations for the same night - ((Thirty)) 30-day suspension.

(b) Use of privileges by unauthorized person - ((Sixty)) 60-day suspension and/or a fee equal to two times the campsite fee.

(c) Two or more no-shows (failure to use or cancel reservation) for reservations - ((Ninety)) 90-day suspension.

(d) Repeated park rule violations - Minimum ((ninety)) 90-day suspension.

((4)) (6) Foster parents may appeal a suspension or revocation to the state parks director by mailing a written statement of the basis for appeal to the director within (~~ten~~) 10 days of receipt of the notice of suspension or revocation. The appeal may be decided as a brief adjudicative appeal under RCW 34.05.482 through 34.05.494, and will be decided by the director or designee. Unless the suspension period expires, the suspension will remain in effect during the pendency of an appeal.

[Statutory Authority: Chapter 79A.05 RCW. WSR 19-04-075, § 352-32-253, filed 2/1/19, effective 3/4/19. Statutory Authority: RCW 79A.05.030, 79A.05.070, 79A.05.075, and 79A.05.065. WSR 08-24-006, § 352-32-253, filed 11/20/08, effective 12/21/08.]

## WSR 23-12-063

## PROPOSED RULES

## DEPARTMENT OF HEALTH

[Filed June 2, 2023, 3:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-01-097.

Title of Rule and Other Identifying Information: WAC 246-824-075 Continuing education requirements for dispensing opticians. The department of health (department) is proposing rule amendments to include health equity continuing education (CE) to implement ESSB 5229 (chapter 276, Laws of 2021).

Hearing Location(s): On July 17, 2023, at 12:30 p.m. The department will be holding a virtual only hearing. Register in advance for this webinar [https://us02web.zoom.us/webinar/register/WN\\_JHDA-rojTf2iekDOHH3Mhw](https://us02web.zoom.us/webinar/register/WN_JHDA-rojTf2iekDOHH3Mhw). After registering, you will receive a confirmation email containing information about joining the webinar. During this time, the department will be conducting three rules hearings. The department will be accepting verbal comments for the following professions regarding health equity continuing education: WAC 246-824-075 Dispensing opticians, 246-825-110 Genetic counselors, and 246-850-140 Orthotics and prosthetics.

Date of Intended Adoption: July 24, 2023.

Submit Written Comments to: Kristina Bell, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by July 17, 2023.

Assistance for Persons with Disabilities: Contact Kristina Bell, program manager, phone 360-236-4841, fax 360-236-2901, TTY 711, email [Kristina.bell@doh.wa.gov](mailto:Kristina.bell@doh.wa.gov), by June 30, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW, subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department to create model rules establishing the minimum standards for health equity CE programs. The department adopted model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-24-002. Any rules developed for dispensing opticians must meet or exceed the minimum standards in the model rules found at WAC 246-12-800 through 246-12-830.

The department is proposing to amend WAC 246-824-075 to include two hours of CE in health equity every four years for dispensing opticians. The proposal also establishes enforceable credentialing requirements and safety mechanisms for patients receiving dispensing optician services.

Reasons Supporting Proposal: The goal of health equity CE training is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings includes implicit bias training to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

ESSB 5229 (chapter 276, Laws 2021), codified as RCW 43.70.613, directs the rule-making authority for each health profession licensed under Title 18 RCW, subject to continuing education (CE), to adopt rules requiring a licensee to complete health equity CE training at

least once every four years. The statute also directs the department to establish model rules creating minimum standards for health equity CE training programs.

Rule making is necessary to achieve the statute's goals and objectives by providing updated requirements that are clear, concise, and necessary to ensure patient safety. Rule making establishes enforceable credentialing requirements and safety mechanisms for patients receiving dispensing optician services.

Statutory Authority for Adoption: RCW 18.34.120, 43.70.613, 43.70.040, 18.130.040.

Statute Being Implemented: RCW 43.70.613(1).

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristina Bell, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4841.

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 Kristina Bell, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4841, fax 360-236-2901, TTY 711, email [Krisitna.bell@doh.wa.gov](mailto:Krisitna.bell@doh.wa.gov) [[Kristina.bell@doh.wa.gov](mailto:Kristina.bell@doh.wa.gov)].

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

June 2, 2023  
 Kristin Peterson, JD  
 Chief of Policy  
 for Umair A. Shah, MD, MPH  
 Secretary

## OTS-4393.2

AMENDATORY SECTION (Amending WSR 15-07-006, filed 3/6/15, effective 4/6/15)

**WAC 246-824-075 Continuing education requirements for dispensing opticians.** Purpose and scope. The purpose of continuing education is to ensure the continued high quality of services provided by licensed dispensing opticians. Continuing education consists of programs of learning which contribute directly to the advancement or enhancement of skills in the field of opticianry, designed to keep the licensed dispensing opticians informed of current and forecasted developments in a rapidly changing field.

(1) Basic requirements. Licensed dispensing opticians whose three-year continuing education reporting cycle begins on or after June 1, 2015, must complete ((thirty)) 30 hours of continuing education every three years ((as required in chapter 246-12 WAC, Part 7))

according to the requirements in WAC 246-12-170 through 246-12-240. Of the ~~((thirty))~~ 30 hours every three years:

(a) A minimum of five hours must be completed in each of the three years;

(b) At least ~~((fifteen))~~ 15 of the credit hours must relate to contact lenses.

(2) Approved continuing education courses may be completed through the following methods or activities:

(a) Attendance at a local state or national program;

(b) Self-study through distance learning;

(c) Electronically through webinar or video presentations.

(3) Courses offered by the following organizations are presumed to qualify as continuing education courses. The secretary reserves the right to refuse to accept credits in any course if the secretary determines that the course did not provide information sufficient in amount or relevancy to opticianry:

(a) American Board of Opticianry;

(b) National Academy of Opticianry;

(c) Optical Laboratories Association;

(d) National Contact Lens Examiners;

(e) Contact Lens Society of America;

(f) Opticians Association of Washington;

(g) Joint Commission of Allied Health

Personnel in Ophthalmology;

(h) Council on Optometric Practitioner Education;

(i) Opticianry colleges or universities approved by the secretary;

(j) Speakers sponsored by any of the above organizations;

(k) Any state or national opticianry association; and

(l) Additional qualifying organizations or associations as approved by the secretary.

(4) Dispensing opticians must complete a minimum of two hours in health equity continuing education training every four years by complying with WAC 246-12-800 through 246-12-830.

(a) This training must be completed by the end of the second full continuing education reporting period after January 1, 2024, or the second full continuing education reporting period after initial licensure, whichever is later.

(b) The hours spent completing health equity continuing education under this section count toward meeting applicable continuing education requirements in this section.

[Statutory Authority: RCW 18.34.120. WSR 15-07-006, § 246-824-075, filed 3/6/15, effective 4/6/15; WSR 09-07-023, § 246-824-075, filed 3/6/09, effective 4/6/09. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-824-075, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.17.060 and 18.130.070. WSR 91-09-024 (Order 155), § 246-824-075, filed 4/10/91, effective 5/11/91.]

**WSR 23-12-078**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Developmental Disabilities Administration)  
[Filed June 6, 2023, 1:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-18-073.

Title of Rule and Other Identifying Information: WAC 388-845-0001  
Definitions, 388-845-0005 What are home and community based services  
(HCBS) waivers?, 388-845-0010 What is the purpose of HCBS waivers?,  
388-845-0030 Do I meet criteria for HCBS waiver-funded services?,  
388-845-0041 What is DDA's responsibility to provide your services un-  
der the DDA HCBS waivers administered by DDA?, 388-845-0045 When there  
is capacity to add people to a waiver, how does DDA determine who will  
be enrolled?, 388-845-0050 How do I request to be enrolled in a waiv-  
er?, 388-845-0070 What determines if I need ICF/IID level of care?,  
388-845-0100 What determines which waiver I am assigned to?,  
388-845-0105 What criteria determine assignment to the community pro-  
tection waiver?, 388-845-0110 What are the limits to the waiver serv-  
ices you may receive?, 388-845-0111 Are there limitations regarding  
who can provide services?, 388-845-0113 When may I receive waiver  
services through teleservice?, 388-845-0210 What services are availa-  
ble under the basic plus waiver?, 388-845-0215 What services are  
available under the core waiver?, 388-845-0220 What services are  
available under the community protection waiver?, 388-845-0225 What  
services are available under the children's intensive in-home behavio-  
ral support (CIIBS) waiver?, 388-845-0230 What services are available  
under the individual and family services (IFS) waiver?, 388-845-0415  
What is assistive technology?, 388-845-0425 Are there limits to the  
assistive technology you may receive?, 388-845-0500 What is positive  
behavior support and consultation?, 388-845-0501 What is included in  
positive behavior support and consultation for the children's inten-  
sive in-home behavioral support (CIIBS) waiver?, 388-845-0505 Who is a  
qualified provider of positive behavior support and consultation?,  
388-845-0506 Who is a qualified provider of positive behavior support  
and consultation for the children's intensive in-home behavioral sup-  
port (CIIBS) waiver?, 388-845-0510 Are there limits to the positive  
behavior support and consultation you may receive?, 388-845-0515 What  
is extermination of bedbugs?, 388-845-0525 Are there limits to the ex-  
termination of bedbugs services I may receive?, 388-845-0650 What is  
community engagement?, 388-845-0660 Are there limits to the community  
engagement you may receive?, 388-845-0800 What is emergency assistance  
funding?, 388-845-0805 Who is a qualified provider of emergency assis-  
tance funding?, 388-845-0810 How do I qualify for emergency assistance  
funding?, 388-845-0820 Are there limits to your use of emergency as-  
sistance funding?, 388-845-0900 What are environmental adaptations?,  
388-845-0910 What limits apply to environmental adaptations?,  
388-845-0940 Are there limits to the equine therapy I may receive?,  
388-845-0945 What is remote support?, 388-845-0950 Who are qualified  
providers of remote support?, 388-845-0955 Are there limits to the re-  
mote support I may receive?, 388-845-1030 What are individualized  
technical assistance services?, 388-845-1040 Are there limits to the  
individualized technical assistance services you may receive?,  
388-845-1163 Are there limits to the music therapy I may receive?,  
388-845-1190 What is peer mentoring?, 388-845-1192 What limits apply

to peer mentoring?, 388-845-1195 What is person-centered plan facilitation?, 388-845-1197 What are the limits for person-centered plan facilitation?, 388-845-1600 What is respite care?, 388-845-1607 Can someone who lives with you be your respite provider?, 388-845-1620 Are there limits to the respite care you may receive?, 388-845-1660 Are there limits to the risk assessment you may receive?, 388-845-1800 What are specialized equipment and supplies?, 388-845-1805 Who are the qualified providers of specialized equipment and supplies[?], 388-845-1810 Are there limits to the specialized equipment and supplies you may receive?, 388-845-1865 Are there limits to your receipt of specialized clothing?, 388-845-1870 What are specialized habilitation services?, 388-845-1880 Who are qualified providers of specialized habilitation services?, 388-845-1890 Are there limits to the specialized habilitation I may receive?, 388-845-2000 What is staff and family consultation?, 388-845-2005 Who is a qualified provider of staff and family consultation?, 388-845-2010 Are there limits to the staff and family consultation you may receive?, 388-845-2130 What are supported parenting services?, 388-845-2141 What is specialized evaluation and consultation?, 388-845-2142 Who are qualified providers of specialized evaluation and consultation services?, 388-845-2143 What are the limits to specialized evaluation and consultation services?, 388-845-2150 Who is a qualified provider of therapeutic adaptations?, 388-845-2155 Are there limits to the therapeutic adaptations I may receive?, 388-845-2200 What are transportation services?, 388-845-2205 Who is qualified to provide transportation services?, 388-845-2210 Are there limitations to the transportation services you can receive?, 388-845-2260 What are vehicle modifications?, 388-845-2270 Are there limits to your receipt of vehicle modification services?, 388-845-2283 How are my wellness educational materials selected?, 388-845-2285 Are there limits to wellness education?, 388-845-2290 Who are qualified providers of wellness education?, 388-845-3055 What is a person-centered service plan?, 388-845-3056 What if you need assistance to understand your person-centered service plan?, 388-845-3065 How long is your plan effective?, 388-845-3075 What if your needs change?, 388-845-3080 What if my needs exceed the maximum yearly funding limit or the scope of services under the basic plus waiver?, 388-845-4000 What are my appeal rights under the waiver?, and 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver?

Hearing Location(s): On August 8, 2023, at 10:00 a.m., virtually via [Microsoft] Teams or call in. Hearings are being held virtually. Please see the department of social and health services (DSHS) website for the most current information.

Date of Intended Adoption: Not earlier than August 9, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6085, by 5:00 p.m. on August 8, 2023.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules coordinator, phone 360-664-6036, fax 360-664-6085, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on July 25, 2023.

Reasons Supporting Proposal: These changes to chapter 388-845 WAC are necessary to implement amendments to the developmental disabilities administration's (DDA) home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Major changes to the chapter: Adjust the yearly limits applicable to certain waivers; add assistive technology to multiple waivers; remove the positive behavior support and consultation service



from all waivers except the community protection waiver; amend the definition of the specialized evaluation and consultation service; amend the definition of community engagement; add teleservice as a service delivery method; add remote supports to multiple waivers; and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.120.

Statute Being Implemented: RCW 71A.12.290.

Rule is necessary because of federal law, 42 C.F.R. 441.301

(c) (6).

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: Ann Vasilev, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1551.

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 Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, email chantelle.diaz@dshs.wa.gov.

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

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. For businesses delivering services under chapter 388-845 WAC, common costs by rule amendments would be the result of changed provider qualifications, such as requiring a license or training. No new trainings or licenses are required.

Former positive behavior support providers who choose to deliver behavioral health services through fee-for-service medicaid or managed care organizations may incur costs associated with contracting and billing for those separate state plan benefits. The contracting and billing costs are not required by the amendments to this chapter. Thus, providers should incur no costs in complying with these amendments.

May 31, 2023

Katherine I. Vasquez  
Rules Coordinator

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 23-14 issue of the Register.

**WSR 23-12-084**  
**PROPOSED RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**  
[Filed June 6, 2023, 4:35 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 357-28-245  
Is approval required when a general government employer changes a position's overtime eligibility designation? and 357-58-160 How are hours of work established for WMS employees?

Hearing Location(s): On August 10, 2023, at 8:30 a.m., Zoom meeting (with call-in option), ID 881 7165 8224; call in 253-215-8782, passcode 850872, Zoom link <https://ofm-wa-gov.zoom.us/j/88171658224?pwd=T1R1aUF4K3hEOEtCLzBHZnBaamVnZz09>, Passcode if needed 850872.

Date of Intended Adoption: August 17, 2023.

Submit Written Comments to: Brandy Chinn, Office of Financial Management (OFM), Raad Building, 128 10th Avenue S.W., P.O. Box 47500, Olympia, WA 98504, email [brandy.chinn@ofm.wa.gov](mailto:brandy.chinn@ofm.wa.gov), by August 3, 2023.

Assistance for Persons with Disabilities: Contact OFM, TTY 711 or 1-800-833-6384, by August 3, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Repeal WAC 357-28-245 to no longer require general government employers to request director approval when a nonrepresented employee's position is changed from overtime eligible to overtime exempt. Amend WAC 357-58-160 to remove the reference to WAC 357-28-245 due to the proposal to repeal WAC 357-28-245.

Reasons Supporting Proposal: The proposed amendment to WAC 357-28-245 is to allow employers the flexibility to manage overtime eligibility rather than require approval from the director of OFM. The proposed amendment to WAC 357-58-160 is to remove the reference to WAC 357-28-245 due to the proposal to repeal WAC 357-28-245.

Statutory Authority for Adoption: RCW 41.06.133.

Statute Being Implemented: RCW 41.06.133.

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

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brandy Chinn, 128 10th Avenue S.W., Olympia, WA 98501, 360-878-2901.

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. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

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.

Scope of exemption for rule proposal:

Is fully exempt.

June 6, 2023  
Nathan Sherrard  
Assistant Legal Affairs Counsel

AMENDATORY SECTION (Amending WSR 05-12-069, filed 5/27/05, effective 7/1/05)

**WAC 357-58-160 How are hours of work established for WMS employees?** Agencies must assign each WMS position to one of the overtime eligibility designations identified in the compensation plan and determine the position's work week.

For overtime eligible employees, compensation must be in accordance with the following sections of chapter 357-28 WAC:

(~~WAC 357-28-245~~)

WAC 357-28-250

WAC 357-28-255

WAC 357-28-260

WAC 357-28-265

WAC 357-28-275

WAC 357-28-280

WAC 357-28-285

[Statutory Authority: Chapter 41.06 RCW. WSR 05-12-069, § 357-58-160, filed 5/27/05, effective 7/1/05.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 357-28-245            Is approval required when a general government employer changes a position's overtime eligibility designation?

**WSR 23-12-086**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed June 6, 2023, 4:40 p.m.]

The Washington department of fish and wildlife is withdrawing the periodic status review—Western gray squirrel proposed rule issued under WSR 23-10-080, filed on May 2, 2023.

Scott Bird  
Rules Coordinator

## WSR 23-12-090

## PROPOSED RULES

## DEPARTMENT OF HEALTH

[Filed June 6, 2023, 5:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-14-105.

Title of Rule and Other Identifying Information: New chapter 246-835 WAC, Birth doula. The department of health (department) is proposing a new chapter of rule to implement ESHB 1881, which created the birth doula profession. The department is proposing rules to establish the education, training, and certification requirements, fees, and continuing education (CE), which includes health equity CE requirements.

Hearing Location(s): On July 13, 2023, at 3:30 p.m. The department is holding a virtual only hearing, with no physical meeting space. Register in advance for this webinar <https://us02web.zoom.us/join/9876543210>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: July 31, 2023.

Submit Written Comments to: Kathy Weed, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email [birthdoula@doh.wa.gov](mailto:birthdoula@doh.wa.gov), fax 360-236-2901, <https://fortress.wa.gov/doh/policyreview>, by July 13, 2023.

Assistance for Persons with Disabilities: Contact Kathy Weed, phone 360-236-4883, fax 360-236-2901, TTY 360-833-6388 or 711, email [kathy.weed@doh.wa.gov](mailto:kathy.weed@doh.wa.gov) by July 6, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules implement ESHB 1881 (chapter 217, Laws of 2022) which created birth doulas as a new profession in the state of Washington. The department is proposing rules that establish the new profession's education, training, and certification requirements.

The proposed rules incorporate education requirements that include culturally congruent ancestral practices, training, and education. Training may be completed through educational programs or completing ancestral pathway competencies.

The proposed rules establish certification requirements which include an application process, fees, and other requirements necessary to comply with the Uniform Disciplinary Act, chapter 18.130 RCW, which is required for all credential holders.

The proposed rules also will require credential holders to complete CE to renew the credential. The CE requirements include two hours of health equity CE every four years that comply with the department's model rules. The health equity CE requirements comply with ESSB 5229 (chapter 276, Laws of 2021) which is a requirement for all health care professionals with CE requirements.

As established in the statute, a person may practice as a birth doula without obtaining a certification under the proposed rules and chapter 18.47 RCW. However, no person may use the title "state-certified birth doula" in connection with the person's name to indicate or imply, directly or indirectly, that the person is a state-certified birth doula without being certified by the department in accordance with the rules and statute.

Reasons Supporting Proposal: The department proposes these rules to align with the legislative intent of ESHB 1881 and ESSB 5229 and

the Uniform Disciplinary Act. Rules are needed to establish the framework for regulating birth doulas.

Statutory Authority for Adoption: Chapter 18.47 RCW; RCW 43.70.250, 43.70.613; chapter 18.130 RCW.

Statute Being Implemented: ESHB 1881 (chapter 217, Laws of 2022), codified as chapter 18.47 RCW, and ESSB 5229 (chapter 276, Laws 2021), codified as RCW 43.70.613.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4883.

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 Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4883, fax 360-236-2901, TTY 711, email birthdoula@doh.wa.gov.

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

Is exempt under RCW 19.85.025(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.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

June 6, 2023  
 Todd Mountin, PMP  
 Deputy Chief of Policy  
 for Umair A. Shah, MD, MPH  
 Secretary

**OTS-4500.5**

**Chapter 246-835 WAC  
 BIRTH DOULA**

NEW SECTION

**WAC 246-835-005 State-certified birth doula.** (1) An individual who meets the certification requirements of this chapter and chapter 18.47 RCW is considered a "state-certified birth doula."

(2) Nothing in this chapter prohibits a person from practicing as a birth doula without obtaining a certification under this chapter and chapter 18.47 RCW.

(3) No person may use the title "state-certified birth doula" in connection with the person's name to indicate or imply, directly or

indirectly, that the person is a state-certified birth doula without being certified in accordance with this chapter as a birth doula.

[]

NEW SECTION

**WAC 246-835-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Birth doula" or "doula" mean a state-certified birth doula under this chapter.

(2) "Culturally congruent care" means the care and respect towards families to uphold their cultural practices around birth as the duty of the doula regardless of their identity, as well as assisting families in accessing other doulas from the same background and community as them.

(3) "Department" means the department of health.

(4) "Postpartum" means the 12-month period beginning on the last day of pregnancy.

(5) "Secretary" means the secretary of the department of health.

[]

NEW SECTION

**WAC 246-835-015 Education requirements.** To qualify for certification, an individual shall:

(1) Successfully complete culturally congruent ancestral practices, training, and education as required in WAC 246-835-025.

(2) In addition to subsection (1) of this section an individual shall also successfully complete:

(a) An approved program in WAC 246-835-020; or

(b) Requirements for ancestral pathway competencies in WAC 246-835-022.

[]

NEW SECTION

**WAC 246-835-020 Approved birth doula educational programs.** (1) The secretary accepts any birth doula training program that requires attendance at a minimum of three births and introduces students to the key principles of the following topics:

(a) Role of a birth doula: History of birth work, scope of work, individual practice and skill set, when and how to refer out;

(b) Prenatal and birth care: Prenatal wellness and preparing for birth including, but not limited to, nutrition, movement, mental health, spiritual wellness, relationship support, education, and resources; physiology of labor and birth; comfort measures; coping tech-

niques and pain management; common medical terminology and interventions; creating a birth plan;

(c) Postpartum care: Lactation and newborn feeding techniques, newborn care, family integration and bonding, healing and comfort measures, postpartum mood and anxiety disorders, self and community care, and grief;

(d) Communication and interpersonal skills: Collaboration with birth team, emotional intelligence and sensitivity, active listening, informed consent and decision making, advocacy, accessible and affirming language; community support networks;

(e) Doula safety and self-care: Boundaries with clients, capacity and burn out, emotional wellness practices such as mindfulness, meditation, reiki, and prayer, networking, and community building; and

(f) Birth justice and advocacy: LGBTQ+/gender inclusive care, black and indigenous perinatal health crisis, medical racism and advocacy.

(2) Birth doula training programs meeting the criteria in subsection (1) of this section may apply for department approval. Programs that have applied for, and received approval, will be listed on the department's webpage.

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#### NEW SECTION

**WAC 246-835-022 Ancestral pathway competencies.** To qualify for certification as a birth doula by completing the ancestral pathway competencies, the applicant shall complete birth doula ancestral training that is substantially equivalent to the required training in WAC 246-835-020. Documentation of completion must include:

(1) An attestation on forms provided by the department that they have completed training that is substantially equivalent to the required training in WAC 246-835-020; and

(2) An attestation that they have attended at least one birth in the capacity of a doula in either a paid or volunteer capacity within the last five years; or

(3) Three written client testimonial letters or letters of recommendation from professionals or peers using testimonial templates provided by the department. Letters must be written within the last five years. One letter must be from either a licensed provider, a community-based organization, or a practicing doula or midwife.

[]

#### NEW SECTION

**WAC 246-835-025 Culturally congruent ancestral practices, training, and education.** (1) To apply for a birth doula certification, an applicant shall complete culturally congruent ancestral practices, training, and education that demonstrates learned familiarity with clients' cultural practices using culturally congruent care related to birth in client communities where the doula may practice. Such training may include, but is not limited to:



(a) Multicultural, ancestral and culturally congruent care; such as, but not limited to, rebozo use, belly binding, placenta burial, placenta encapsulation, cord burning, lotus birth, development of intuition;

(b) History of obstetrics; such as erasure of granny midwives and indigenous birth work; or

(c) Other training and education that enhances the applicant's knowledge of culturally congruent ancestral practices.

(2) Documentation of completion must include:

(a) An attestation that they have successfully completed a training in one of the categories in subsection (1) of this section; or

(b) A certificate of completion from a relevant training that lists the applicant's name.

[]

#### NEW SECTION

**WAC 246-835-030 Application process.** An applicant for a birth doula certification shall submit the following to the department:

(1) A completed application as provided by the department;

(2) Proof of successful completion of the education requirements in WAC 246-835-015:

(a) Culturally congruent ancestral practices, training, and education as required in WAC 246-835-025; and

(b) If the applicant completed the birth and core curricula training requirements through a program meeting the requirements in WAC 246-835-020(1), documentation must be submitted by the applicant to the department; or

(c) If the applicant completed the training requirements from an approved program through WAC 246-835-020(2) listed on the department's webpage, proof of completion must be received by the department directly from the program where the applicant completed the training; or

(d) If the applicant completed the education requirements through completion of the ancestral pathway and legacy competencies in WAC 246-835-022, documentation must be submitted by the applicant to the department.

(3) Verification from all states in which the applicant holds or has held a health care credential, indicating that the applicant has or has not been subject to charges or disciplinary action for unprofessional conduct or impairment;

(4) Additional documentation as required by the secretary to determine whether an applicant is qualified for certification; and

(5) Any fees required in WAC 246-835-990.

[]

#### NEW SECTION

**WAC 246-835-060 Continuing education.** State-certified birth doulas shall complete 10 hours of continuing education every renewal cycle in the form of continuing education and professional develop-

ment. The credential holder shall submit documentation upon request as required by chapter 246-12 WAC.

(1) Eight hours of continuing education and professional development must be obtained through one of the activities listed in (a) through (f) of this subsection. A minimum of five hours must directly relate to the practice of a birth doula as defined in chapter 18.47 RCW. Any remaining hours may be in professional development activities that enhance the practice of the birth doula. Documentation for all activities must include credential holders name, date of activity, and number of hours. Approved continued education activities include:

- (a) Continuing education course work;
- (b) Employer sponsored in-service training or professional study groups;
- (c) Attendance at a professional conference or workshop presented by a professional organization;
- (d) Online courses and webinars;
- (e) Self-study of professional journal articles, textbooks or chapters, or professionally developed multimedia and digital media educational materials; and
- (f) Service on a professional board, committee, collective, disciplinary panel, or association.

(2) In addition to the eight hours of continued education in subsection (1) of this section, a birth doula shall complete two hours of health equity CE every four years per chapter 43.70 RCW and in compliance with WAC 246-12-800 through 246-12-830.

[]

NEW SECTION

**WAC 246-835-990 Birth doula fees and renewal cycle.** (1) A birth doula must renew their certification every two years on the practitioner's birthday as provided in chapter 246-12 WAC.

(2) The following nonrefundable fees will be charged:

<b>Title</b>	<b>Fee</b>
Application for initial certification	\$190.00
License renewal	\$190.00
Late renewal penalty	\$95.00
Expired certificate reissuance	\$95.00
Duplicate certificate	\$10.00
Verification of certification	\$25.00

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## WSR 23-12-091

## PROPOSED RULES

## DEPARTMENT OF HEALTH

[Filed June 6, 2023, 5:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-24-002.

Title of Rule and Other Identifying Information: Genetic counselor health equity continuing education. The department of health (department) is proposing amending WAC 246-825-110 Continuing education (CE), to implement ESSB 5229 (chapter 276, Laws 2021) adding health equity CE to licensure requirements for genetic counselors. The department is also proposing technical changes or changes to improve clarity.

Hearing Location(s): On July 17, 2023, at 12:30 p.m. The department will be holding a virtual only hearing. Register in advance for this webinar [https://us02web.zoom.us/webinar/register/WN\\_JHDA-rojTf2iekDOHH3Mhw](https://us02web.zoom.us/webinar/register/WN_JHDA-rojTf2iekDOHH3Mhw). After registering, you will receive a confirmation email containing information about joining the webinar. During this time the department will be conducting three rule hearings. The department will be accepting verbal comments for the following professions regarding health equity CE: WAC 246-824-075 Dispensing opticians, 246-825-110 Genetic counselors, and 246-850-140 Orthotics and prosthetics.

Date of Intended Adoption: July 24, 2023.

Submit Written Comments to: Kim-Boi Shadduck, Program Manager, Genetic Counselors, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by July 17, 2023.

Assistance for Persons with Disabilities: Contact Kim-Boi Shadduck, phone 360-236-2912, TTY 711, email [kimboi.shadduck@doh.wa.gov](mailto:kimboi.shadduck@doh.wa.gov), by June 30, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending WAC 246-825-110 to include two hours of CE in health equity within the total of 75 CE hours required for genetic counselors every three years. The proposed rules adopt the model health equity CE rules established by the department by adding the required two hours in health equity CE to the existing number of CE hours required for genetic counselors without changing the existing total number of required CE hours.

Reasons Supporting Proposal: ESSB 5229 (chapter 276, Laws of 2021), codified as RCW 43.70.613, directs the rule-making authority for each health profession licensed under Title 18 RCW, subject to CE, to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department to establish model rules creating minimum standards for health equity CE training programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. The proposed rules developed for genetic counselors in WAC 246-825-110 exceeds standards in the model rules found at WAC 246-12-800 through 246-12-830 by requiring the two hours every three years to match the current CE interval of the profession. By allowing genetic counselors as part of their existing CE requirements and aligning it with the existing three-year CE interval makes it less burdensome on the profession.

Statutory Authority for Adoption: RCW 18.290.020, 43.70.613, 43.70.040, 18.130.040.

Statute Being Implemented: ESSB 5229 (chapter 276, Laws of 2021), codified as RCW 43.70.613.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kim-Boi Shadduck, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2912.

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 Kim-Boi Shadduck, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98507-7852, phone 360-236-2912, fax 360-236-2901, TTY 711, email kimboi.shadduck@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

June 6, 2023  
 Todd Mountin, PMP  
 Deputy Chief of Policy  
 for Umair A. Shah, MD, MPH  
 Secretary

## OTS-4357.2

AMENDATORY SECTION (Amending WSR 10-22-090, filed 11/1/10, effective 11/1/10)

**WAC 246-825-110 Continuing education.** (1) Licensed genetic counselors must complete a minimum total of (~~(seventy-five)~~) 75 continuing education hours or 7.5 continuing education units (CEUs) every three years following the first license renewal. One contact hour equals 0.1 CEU. Of the total hours required for each reporting cycle:

(a) Each licensee must complete at least two hours or 0.2 CEUs of health equity training in compliance with WAC 246-12-800 through 246-12-830. This requirement shall begin at the end of a licensee's second full continuing education reporting period after January 1, 2024, or the second full continuing education reporting period after initial licensure, whichever is later;

(b) No more than (~~(fifteen)~~) 15 continuing education hours or 1.5 CEUs may be earned for professional development activity credits (~~(within a reporting cycle)~~) in subsection (2) of this section.

(2) Professional development activities include, but are not limited to:

(a) Teaching or providing clinical supervision; authoring or co-authoring an article or chapter in peer-review journal; genetics education outreach; leadership activities.

(b) Lecturing or instructing professional groups.

(c) Teaching genetics related courses for undergraduate, graduate, or other health provider groups.

Multiple credits shall not be given to presenters for multiple presentations of the same program.

(3) Practice-based competency courses or programs may consist of postgraduate studies, seminars, lectures, workshops (including distance learning), and professional conferences. Practice-based competencies include, but are not limited to:

(a) Communication - convey detailed genetic information to diverse audiences clearly and concisely while bridging cultural, socioeconomic and educational difference.

(b) Critical thinking - perform complicated risk calculations; evaluate medical, family and psychosocial histories; distill genetic and psychosocial information; participate in diagnostic evaluations; and develop effective case management plan.

(c) Interpersonal counseling, and psychosocial assessment - use an empathetic approach to identify a patient's concerns, clarify beliefs and values, promote preventative health measures and facilitate informed decision making.

(d) Professional ethics and values.

(4) Courses and programs accredited or approved by the following organizations qualify for continuing education credit for licensed genetic counselors.

(a) ABGC;

(b) ABMG;

(c) NSGC; or

(d) Other courses or programs as approved by the secretary.

(5) Continuing education contact hours or CEUs may not be carried over from one reporting cycle to another.

(6) A genetic counselor may request an extension or to be excused from meeting the continuing education requirements due to illness or other extenuating circumstances.

[Statutory Authority: RCW 18.290.020. WSR 10-22-090, § 246-825-110, filed 11/1/10, effective 11/1/10.]

## WSR 23-12-092

## PROPOSED RULES

## DEPARTMENT OF HEALTH

[Filed June 6, 2023, 5:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-01-099.

Title of Rule and Other Identifying Information: WAC 246-850-140 Continuing education requirements for orthotics and prosthetics. The department of health (department) is proposing rule amendments to include health equity continuing education (CE).

Hearing Location(s): On July 17, 2023, at 12:30 p.m. The department will be holding a virtual only hearing. Register in advance for this webinar at [https://us02web.zoom.us/webinar/register/WN\\_JHDA-rojTf2iekDOHH3Mhw](https://us02web.zoom.us/webinar/register/WN_JHDA-rojTf2iekDOHH3Mhw). After registering, you will receive a confirmation email containing information about joining the webinar. During this time the department will be conducting three rule hearings. The department will be accepting verbal comments for the following professions regarding health equity CE: WAC 246-824-075 Dispensing opticians, 246-825-110 Genetic counselors, and 246-850-140 Orthotics and prosthetics.

Date of Intended Adoption: July 24, 2023.

Submit Written Comments to: Kristina Bell, Program Manager, Orthotics and Prosthetics, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, by July 17, 2023.

Assistance for Persons with Disabilities: Contact Kristina Bell, program manager, phone 360-236-4841, fax 360-236-2901, TTY 711, email [Kristina.bell@doh.wa.gov](mailto:Kristina.bell@doh.wa.gov), by June 30, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department to create model rules establishing minimum standards for health equity CE programs. The department adopted model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-24-002. Any rules developed for orthotists and prosthetists must meet or exceed the minimum standards in the model rules found at WAC 246-12-800 through 246-12-830.

The department is proposing to amend WAC 246-850-140 to include at minimum two hours of CE in health equity every four years for orthotists and prosthetists. The health equity CE requirement is being added to the existing number of CE hours required for orthotists and prosthetists without changing the existing total number of required CE hours. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Reasons Supporting Proposal: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The proposed rules establish these requirements.

The goal of health equity CE training is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings include implicit bias training to identify strategies to reduce bias during as-

assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Rule making is necessary to define and enforce the health equity CE requirement for orthotists and prosthetists and to implement the statute.

Statutory Authority for Adoption: RCW 43.70.613, 43.70.040, 18.130.040, 18.200.050.

Statute Being Implemented: RCW 43.70.613.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristina Bell, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4841.

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 Kristina Bell, Program Manager, Department of Health, P.O. Box 47852-7852, Olympia, WA 98507, phone 360-236-4841, fax 360-236-2901, TTY 711, email Kristina.bell@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

June 6, 2023  
 Todd Mountin, PMP  
 Deputy Chief of Policy  
 for Umair A. Shah, MD, MPH  
 Secretary

## OTS-4397.2

AMENDATORY SECTION (Amending WSR 19-09-065, filed 4/16/19, effective 5/17/19)

**WAC 246-850-140 Continuing competency requirements for orthotists and prosthetists.** (1) The continuing competency reporting cycle begins with the first full three-year period after initial licensure. All orthotists and prosthetists shall attest to completion of continuing competency activities every year at renewal and shall comply with (~~chapter 246-12 WAC, Part 7~~) WAC 246-12-170 through 246-12-240.

(2) All licensed orthotists and prosthetists shall complete continuing competency hours as follows:

(a) Licensed orthotists shall complete a minimum of (~~forty-five~~) 45 continuing competency hours every three years in the area of orthotics.

(b) Licensed prosthetists shall complete a minimum of (~~forty-five~~) 45 continuing competency hours every three years in the area of prosthetics.

(c) Individuals who are licensed as both an orthotist and as a prosthetist shall complete a minimum of ~~((sixty))~~ 60 continuing competency hours every three years.

(3) For individuals licensed in one discipline, a maximum of eighteen Category 2 continuing competency hours may be earned in any three-year reporting period.

(4) For individuals licensed in both disciplines, a maximum of ~~((twenty-four))~~ 24 Category 2 continuing competency hours may be earned in any three-year reporting period.

(5) Licensees may alternatively meet the continuing competency requirement if they hold a current certification from the American Board for Certification in Orthotics, Prosthetics and Pedorthics. The required documentation is proof of certification during the three-year cycle.

(6) Orthotists and prosthetists must complete a minimum of two hours in health equity continuing education training every four years by complying with WAC 246-12-800 through 246-12-830.

(a) Individuals licensed as both an orthotist and prosthetist only need to meet the requirements once every four years.

(b) This training must be completed by the end of the second full continuing education reporting period after January 1, 2024, or the second full continuing education reporting period after initial licensure, whichever is later.

(c) The hours spent completing health equity continuing education under this section count toward meeting applicable continuing education requirements in this section.

[Statutory Authority: RCW 18.200.050. WSR 19-09-065, § 246-850-140, filed 4/16/19, effective 5/17/19. Statutory Authority: RCW 18.200.050(13). WSR 03-17-093, § 246-850-140, filed 8/20/03, effective 12/1/03.]



## WSR 23-12-093

## PROPOSED RULES

## DEPARTMENT OF HEALTH

[Filed June 6, 2023, 8:28 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: Chapter 246-978 WAC, Death With Dignity Act requirements. The department of health (department) proposes amending existing rules and repealing obsolete rules within chapter 246-978 WAC. The proposed changes realign the rule chapter to align with ESSB 5179 (chapter 38, Laws of 2023) which amended chapter 70.245 RCW, The Washington Death with Dignity Act.

Hearing Location(s): On July 13, 2023, at 10:00 a.m. A virtual public hearing, without a physical meeting space, will be held. Register in advance for this webinar [https://us02web.zoom.us/join/register/WN\\_Jnb4btiMRByZDr5nyVHiiw](https://us02web.zoom.us/join/register/WN_Jnb4btiMRByZDr5nyVHiiw). After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: July 20, 2023.

Submit Written Comments to: Kelly Thomson, Department of Health, Center for Health Statistics, P.O. Box 47814, Olympia, WA 98504-7814, email <https://fortress.wa.gov/doh/policyreview>, by July 13, 2023.

Assistance for Persons with Disabilities: Contact Kelly Thomson, phone 564-669-1736, email [kelly.thomson@doh.wa.gov](mailto:kelly.thomson@doh.wa.gov), by July 6, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes revisions to the Death With Dignity Act requirements in chapter 246-978 WAC that reflect (1) the amendments made during the 2023 legislative session and (2) the writing style described in the 2023 Bill Drafting Guide.

ESSB 5179 did the following:

- In RCW 70.245.010, made changes to multiple definitions.
  - "Attending physician" became "attending qualified medical provider."
  - "Consulting physician" became "consulting qualified medical provider."
  - Added independent clinical social worker, advanced social worker, mental health counselor, psychiatric advanced registered nurse practitioner to the "counseling" definition.
  - Removed the definition of "physician."
  - Added a definition of "qualified medical provider" that includes physician, physician assistant, and advanced registered nurse practitioner.
- Changed the terms used throughout chapter 70.245 RCW to match the terms defined in RCW 70.245.010.
- In RCW 70.245.030, removed the long-term care facility witness requirement in subsection (4).
- In RCW 70.245.150, expanded how participating providers may send forms to the department. Now the department can accept forms electronically and by fax.

WAC 246-978-010 duplicates the definitions in statute, which means that the department must update definitions every time the legislature changes the definitions. The department proposes replacing the duplicate definitions with a cross-reference to statute and removing definitions no longer in use. Using a cross-reference will reduce

future definition conflicts, help people find the related statute, and reduce administrative work to keep the rule aligned with statute.

WAC 246-978-020 describes how participating providers must report to the department as required by RCW 70.245.150(2). The department proposes three changes:

- Replacing "physician" with "qualified medical provider."
- Replacing the mailing address with "electronically, by mail, or fax."
- Removing the publication number after the form name.

These proposed changes keep the rule aligned with statute. Removing the publication numbers allows the department to improve reporting forms without changing the meaning of the rule.

WAC 246-978-030 duplicates language in RCW 70.245.150(2). The department proposes repealing WAC 246-978-030 to remove the duplication and prevent potential conflicts between statute and rule.

WAC 246-978-040 describes who can be a witness for a patient living in a long-term care facility. ESSB 5179 repealed the witness requirement for a long-term care facility described in RCW 70.245.030(4). The department proposes repealing WAC 246-978-040 because statute no longer requires it. The proposed change keeps the chapter aligned with statute and removes unneeded regulation.

The department also proposes style changes throughout chapter 246-978 WAC that do not change the meaning of the rule. Proposed changes align rule language with the 2023 Bill Drafting Guide.

- Writing numbers greater than ten as a numeral instead of a word, for example switching "thirty" to "30."
- Removing capitalization.
- Changing passive voice to active voice.
- Adding commonly used phrases.
- Improving plain talk.

Reasons Supporting Proposal: The department's proposal makes sure that the chapter uses the same terms as statute, removes regulation we no longer need, and improves plain talk.

Statutory Authority for Adoption: ESSB 5179 (chapter 38, Laws of 2023); chapter 70.245 RCW.

Statute Being Implemented: ESSB 5179 (chapter 38, Laws of 2023); chapter 70.245 RCW.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Kelly Thomson, 101 Israel Road, Tumwater, WA 98501, 564-669-1736; Implementation: Kaititza Holthaus, 101 Israel Road, Tumwater, WA 98501, 360-236-4311; and Enforcement: Katie Hutchinson, 101 Israel Road, Tumwater, WA 98501, 360-236-4307.

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 making falls under the exception in RCW 34.05.328 (5)(b)(v). ESSB 5179 (2023) amended definitions and removed language throughout chapter 70.245 RCW. Proposed changes update the chapter to reflect content explicitly or specifically dictated by statute as amended during the 2023 legislative session. The proposed rule also provides clarity without changing the effects of the rule or statute and therefore is also exempt under RCW 34.05.328 (5)(b)(iv).

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 only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: ESSB 5179 (2023) amended definitions and removed language throughout chapter 70.245 RCW. Proposed changes update the chapter to reflect content explicitly or specifically dictated by statute as amended during the 2023 legislative session. The proposed rule also provides clarity without changing the effects of the rule or statute and therefore is also exempt under RCW 34.05.310 (4) (d).

Scope of exemption for rule proposal:  
Is fully exempt.

June 6, 2023  
Todd Mountin, PMP  
Deputy Chief of Policy  
for Umair A. Shah, MD, MPH  
Secretary

#### OTS-4607.1

AMENDATORY SECTION (Amending WSR 09-06-010, filed 2/20/09, effective 3/5/09)

**WAC 246-978-001 Purpose and authority.** (~~This chapter is adopted by~~) The Washington state department of health adopts this chapter to implement the provisions of chapter 70.245 RCW, the Washington Death with Dignity Act.

[Statutory Authority: Chapter 70.245 RCW. WSR 09-06-010, § 246-978-001, filed 2/20/09, effective 3/5/09.]

AMENDATORY SECTION (Amending WSR 09-06-010, filed 2/20/09, effective 3/5/09)

**WAC 246-978-010 Definitions.** (~~For the purpose of this chapter, the following definitions apply:~~) In addition to the definitions contained in RCW 70.245.010, the following definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Act" means the "Washington Death with Dignity Act" or Initiative Measure No. 1000 as adopted by the voters on November 4, 2008, codified as chapter 70.245 RCW, and as amended.

(2) (~~"Adult" means an individual who is eighteen years of age or older.~~

(3) ~~"Attending physician" means the physician, as defined in chapter 18.71 or 18.57 RCW, who has primary responsibility for the care of the patient and treatment of the patient's terminal disease.~~

~~(4) "Competent" means that, in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist, or psychologist, a patient has the ability to make and communicate an informed decision to health care providers, including communication through persons familiar with the patient's manner of communicating, if those persons are available.~~

~~(5) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease.~~

~~(6) "Counseling" means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is competent and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.~~

~~(7)) "Department" means the department of health.~~

~~((8) "Dispensing record" means a copy of the Pharmacy Dispensing Record form, DOH 422-067.~~

~~(9) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the law to administer health care or dispense medication in the ordinary course of business or practice of a profession and includes a health care facility.~~

~~(10) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:~~

~~(a) His or her medical diagnosis;~~

~~(b) His or her prognosis;~~

~~(c) The potential risks associated with taking the medication to be prescribed;~~

~~(d) The probable result of taking the medication to be prescribed; and~~

~~(e) The feasible alternatives including, but not limited to, comfort care, hospice care, and pain control.~~

~~(11) "Long-term care facility" means a facility licensed under chapter 18.51 or 72.36 RCW.~~

~~(12) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.~~

~~(13) "Patient" means a person who is under the care of a physician.~~

~~(14) "Physician" means a doctor of medicine, as defined in chapter 18.71 RCW, or osteopathy, as defined in chapter 18.57 RCW, licensed to practice medicine in the state of Washington.~~

~~(15) "Qualified patient" means a competent adult who is a resident of Washington state and has satisfied the requirements of the act in order to obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner.~~

~~(16) "Self-administer" means a qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner.~~

~~(17) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.)~~

[Statutory Authority: Chapter 70.245 RCW. WSR 09-06-010, § 246-978-010, filed 2/20/09, effective 3/5/09.]

AMENDATORY SECTION (Amending WSR 09-06-010, filed 2/20/09, effective 3/5/09)

**WAC 246-978-020 Reporting.** (1) To comply with the act, within ~~((thirty))~~ 30 calendar days of writing a prescription for medication to end the life of a qualified patient, the attending ~~((physician))~~ qualified medical provider shall send the following completed ~~((, signed, and dated documentation by mail to the State Registrar, Center for Health Statistics, P.O. Box 47814, Olympia, WA 98504))~~ documents to the department electronically, by mail, or fax:

(a) The patient's ~~((completed))~~ written request for medication to end life, either using the Written Request for Medication to End My Life in a Humane and Dignified Manner form ~~((, DOH 422-063,))~~ or in substantially the same form as described in the act;

(b) Attending ~~((Physician's))~~ qualified medical provider's compliance form ~~((, DOH 422-064));~~

(c) Consulting ~~((Physician's))~~ qualified medical provider's compliance form ~~((, DOH 422-065));~~ and

(d) Psychiatric/psychological consultant's compliance form, ~~((DOH 422-066,))~~ if an evaluation was performed.

(2) Within ~~((thirty))~~ 30 calendar days of a qualified patient's ingestion of a lethal dose of medication obtained under the act, or death from any other cause, whichever comes first, the attending ~~((physician shall complete the Attending Physician's After Death Reporting form, DOH 422-068))~~ qualified medical provider shall send the completed attending qualified medical provider's after death reporting form to the department electronically, by mail, or fax.

(3) To comply with the act, within ~~((thirty))~~ 30 calendar days of dispensing medication, the dispensing health care provider shall ~~((file))~~ send a copy of the ~~((Pharmacy Dispensing Record form, DOH 422-067, with the State Registrar, Center for Health Statistics, P.O. Box 47814, Olympia, WA 98504. Information to be reported to the department shall include))~~ pharmacy dispensing record form to the department electronically, by mail, or fax. The pharmacy dispensing record form must contain:

(a) Patient's name and date of birth;

(b) Patient's address;

(c) Prescribing ~~((physician's))~~ qualified medical provider's name and phone number;

(d) Dispensing health care provider's name, address and phone number;

(e) Medication dispensed and quantity;

(f) Date the prescription was written; and

(g) Date the medication was dispensed.

[Statutory Authority: Chapter 70.245 RCW. WSR 09-06-010, § 246-978-020, filed 2/20/09, effective 3/5/09.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-978-030 Confidentiality—Liability.
- WAC 246-978-040 Qualifications of witness in a long-term care facility.

## WSR 23-12-094

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed June 6, 2023, 8:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-02-040.

Title of Rule and Other Identifying Information: Health equity continuing education (CE) for occupational therapy. The occupational therapy practice board (board) is proposing to amend WAC 246-847-065 to establish health equity CE requirements to implement ESSB 5229.

Hearing Location(s): On July 14, 2023, at 9:05 [a.m.] Copy this URL into your browser to join the meeting [https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting?rtc=1](https://teams.microsoft.com/l/meetup-join/19%3ameeting_YWiyYTU0NzQtNGIzZC00ZTZkLTkxYjAtMTkyZTU2ZWU1NDVm%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%220id%22%3a%226b58aff3-5555-4d17-ae13-0788bdac52c5%22%7d; or download [Microsoft] Teams, <a href=), and enter Meeting ID 269 406 369 408, Passcode TLxBZT; or call in (audio only) +1 564-999-2000,,176523892# United States, Olympia, Phone Conference ID 176 523 892#; or in person at Holiday Inn Express and Suites, Mt. Baker Room, 507 C Street S.W., Auburn, WA 98001.

Date of Intended Adoption: July 14, 2023.

Submit Written Comments to: Kathy Weed, Department of Health, P.O. Box 47852, Olympia WA 98504-7852, email [kathy.weed@doh.wa.gov](mailto:kathy.weed@doh.wa.gov), fax 360-236-2901, <https://fortress.wa.gov/doh/policyreview>, by July 12, 2023.

Assistance for Persons with Disabilities: Contact Kathy Weed, phone 360-236-4883, fax 360-236-2901, TTY 360-833-6388 or 711, email [kathy.weed@doh.wa.gov](mailto:kathy.weed@doh.wa.gov), by July 7, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW that is subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department of health (department) to create model rules establishing the minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules developed for occupational therapy professionals must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The board is proposing an amendment to WAC 246-847-065, to implement ESSB 5229. The board is proposing adopting the health equity model rules, WAC 246-12-800 through 246-12-830, for occupational therapists and occupational therapy assistants to comply with RCW 43.70.613.

The proposed rule adds two hours of health equity education, as required in the model rules, to be completed as part of the current CE requirements every four years. The proposed rule does not change total CE hours but requires two hours in health equity CE every four years, which are absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing CE requirements for the profession.

Certified on 6/18/2023

Reasons Supporting Proposal: The goal of health equity CE is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings include implicit bias trainings to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Undertaking two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours.

Statutory Authority for Adoption: RCW 43.70.613 and 18.59.130.

Statute Being Implemented: RCW 43.70.613.

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

Name of Proponent: Occupational therapy practice board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4883.

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 Kathy Weed, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, fax 360-236-2901, TTY 360-833-6388 or 711, email kathy.weed@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

June 6, 2023

Mary Spores, OT, Chair

Occupational Therapy Practice Board

## OTS-4547.1

AMENDATORY SECTION (Amending WSR 18-09-032, filed 4/11/18, effective 8/1/18)

**WAC 246-847-065 Continued competency.** Licensed occupational therapists and licensed occupational therapy assistants must complete (~~thirty~~) 30 hours of continued competency every two years in the form of continuing education and professional development. The licen-



see must submit documentation upon request as required by chapter 246-12 WAC.

(1) Beginning January 1, 2014, as part of their continued competency, occupational therapists and occupational therapy assistants are required to obtain at least three hours of training every six years in suicide assessment as specified in WAC 246-847-066. The licensee must keep documentation for six years.

(a) Except as provided in (b) of this subsection, an occupational therapist or occupational therapy assistant must complete the first training required by this section during the first full continued competency reporting period after January 1, 2014, or the first full continued competency reporting period after initial licensure, whichever occurs later.

(b) An occupational therapist or occupational therapy assistant applying for initial licensure on or after January 1, 2014, may delay completion of the first training required by this section for six years after initial licensure if:

(i) He or she can demonstrate successful completion of a three-hour training program in suicide assessment that was completed no more than six years prior to the application for initial licensure; and

(ii) The training meets the qualifications listed in WAC 246-847-066.

(2) As of January 1, 2024, occupational therapists and occupational therapy assistants are required to obtain at least two hours in health equity continuing education training every four years. The continuing education course must meet the minimum standards under RCW 43.70.613. These hours can be counted towards the total required 30 hours of continuing education.

(3) The (~~thirty~~) 30 hours of continuing education and professional development must be obtained through two or more of the activities listed in this subsection. A minimum of (~~twenty~~) 20 hours must directly relate to the practice of occupational therapy as defined in RCW 18.59.020 and WAC 246-847-010. Any remaining hours may be in professional development activities that enhance the practice of the licensed occupational therapist or licensed occupational therapy assistant. Documentation for all activities must include licensee's name, date of activity, and number of hours. Additional specific documentation is defined below:

(a) Continuing education course work. The required documentation for this activity is a certificate or documentation of attendance.

(b) Employer sponsored in-service training or professional study groups. The required documentation for this activity is a certificate or documentation of attendance. A maximum of (~~fifteen~~) 15 hours is allowed per reporting period for this category.

(c) Attendance at a professional conference or workshop presented by a professional organization. The required documentation for this activity is a certificate or documentation of attendance.

(d) Course work offered by an accredited college or university, provided that the course work is taken after the licensee has obtained a degree in occupational therapy, and the course work provides skills and knowledge beyond entry-level skills or knowledge. The required documentation for this activity is a transcript. One course credit is equal to five hours. A maximum of (~~fifteen~~) 15 hours is allowed per reporting period for this category.

(e) Interactive online courses and webinars. The required documentation for this activity is a certificate or documentation of completion.

(f) Presentation to professionals, including poster presentations. One hour of preparation time may be counted per hour of presentation time. The required documentation for this activity is a copy of the presentation or program listing. Any particular presentation may be reported only once per reporting period. A maximum of ~~((ten))~~ 10 hours is allowed per reporting period for this category.

(g) Guest lecturing on an occupational therapy-related topic in an academic setting. The occupational therapist or occupational therapy assistant must not be primarily employed in academia to submit credit for this activity. The required documentation for this activity is a letter or other documentation from the course instructor. A maximum of ~~((ten))~~ 10 hours is allowed per reporting period for this category. One hour of preparation time may be counted per hour of lecture time.

(h) Authoring a publication. The required documentation for this activity is a copy of the publication. For a peer reviewed journal article or chapter in a textbook a maximum of ~~((ten))~~ 10 hours is allowed per reporting period for this category. For nonpeer reviewed professional publication a maximum of five hours is allowed per reporting period for this category.

(i) Development of instructional materials incorporating alternative media such as: Video, audio and/or software programs to advance professional skills of others. The required documentation for this activity is a program description. The media/software materials must be available if requested during audit process. A maximum of ~~((ten))~~ 10 hours is allowed per reporting period for this category.

(j) Professional manuscript review. The required documentation for this activity is a letter from the publishing organization verifying review of manuscript. One hour of continuing education may be counted per hour of review time. A maximum of ~~((ten))~~ 10 hours is allowed per reporting period for this category.

(k) Service on a professional board, committee, disciplinary panel, or association. The required documentation for this activity is a letter or other documentation from the organization. A maximum of ~~((ten))~~ 10 hours is allowed per reporting period for this category.

(l) Self-study of peer reviewed, role-related professional journal articles, textbooks or chapters, or professionally developed multimedia and digital media educational materials. The required documentation for this activity is a typed, one-page synopsis of each item written by the licensee or a certificate from OT practice continuing education article. A maximum of ~~((ten))~~ 10 hours is allowed per reporting period for this category. Time spent writing synopsis is not reportable.

(m) Direct supervision of an occupational therapy student or occupational therapy assistant student. The required documentation for this activity is a name of student(s), letter of verification from school, and dates of fieldwork. Forty hours of supervision per student is equal to one hour of continued competency. A maximum of ~~((twelve))~~ 12 hours per supervisor is allowed per reporting period for this category.

(n) Mentoring. Mentoring in this section means a relationship in which a more experienced or more knowledgeable person helps to guide a less experienced or knowledgeable person for the informal transmission of knowledge and support relevant to professional development. The required documentation for this activity is a written report of goals, objectives and analysis of mentee performance signed by both mentor and mentee. Mentoring credits do not count towards the requirement of

(~~twenty~~) 20 hours directly related to the practice of occupational therapy. A maximum of five hours is allowed per reporting period for this category.

(o) Attending a Washington occupational therapy practice board meeting. A maximum of two credits per reporting period is allowed.

[Statutory Authority: RCW 18.59.130. WSR 18-09-032, § 246-847-065, filed 4/11/18, effective 8/1/18. Statutory Authority: RCW 43.70.442 and 18.59.130. WSR 14-05-016, § 246-847-065, filed 2/10/14, effective 2/15/14. Statutory Authority: RCW 18.59.130 and 18.59.090. WSR 05-24-105, § 246-847-065, filed 12/7/05, effective 1/7/06. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-847-065, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.59.130. WSR 92-18-015 (Order 300B), § 246-847-065, filed 8/24/92, effective 9/24/92; WSR 91-11-064 (Order 171B), § 246-847-065, filed 5/16/91, effective 6/16/91; WSR 91-05-027 (Order 112B), recodified as § 246-847-065, filed 2/12/91, effective 3/15/91; WSR 90-22-011 (Order 094), § 308-171-041, filed 10/26/90, effective 11/26/90.]

## WSR 23-12-095

## PROPOSED RULES

## DEPARTMENT OF HEALTH

(Board of Massage)

[Filed June 6, 2023, 8:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-01-132.

Title of Rule and Other Identifying Information: WAC 246-830-475 Continuing education requirements. The board of massage (board), in coordination with the department of health (department), is proposing amendments to WAC 246-830-475 to establish health equity continuing education (CE) requirements to implement ESSB 5229.

Hearing Location(s): On July 14, 2023, at 9:00 a.m., at Lacey Community Center, 6729 Pacific Avenue S.E., Lacey, WA 98503. You must register in advance for the virtual portion of the hearing [https://us02web.zoom.us/webinar/register/WN\\_DQKnDshwQfqOXtviyJ52g#/registration](https://us02web.zoom.us/webinar/register/WN_DQKnDshwQfqOXtviyJ52g#/registration). After registering, you will receive a confirmation email containing information about joining the webinar. The public hearing will be hybrid. Participants can attend in person at the physical location or virtually by registering via Zoom.

Date of Intended Adoption: July 14, 2023.

Submit Written Comments to: Megan Maxey, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email [megan.maxey@doh.wa.gov](mailto:megan.maxey@doh.wa.gov), fax 360-236-2901, <https://fortress.wa.gov/doh/policyreview/>, by July 7, 2023.

Assistance for Persons with Disabilities: Contact Megan Maxey, phone 360-236-4945, fax 360-236-2901, TTY 711, email [megan.maxey@doh.wa.gov](mailto:megan.maxey@doh.wa.gov), by June 30, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 43.70.613 (3)(b) directs the rule-making authority for each health profession licensed under Title 18 RCW that is subject to CE to adopt rules requiring a licensee to complete health equity CE training at least once every four years. The statute also directs the department to create model rules establishing the minimum standards for health equity CE programs. The department filed model rules for health equity CE minimum standards on November 23, 2022, under WSR 22-23-167. Any rules developed for massage practitioners must meet or exceed the minimum standards in the model rules in WAC 246-12-800 through 246-12-830.

The board and department are proposing an amendment to WAC 246-830-475 to implement ESSB 5229. The board and department are proposing adopting the health equity model rules, WAC 246-12-800 through 246-12-830, for massage therapy to comply with RCW 43.70.613.

The proposed rule adds four hours of health equity education to be completed as part of the current CE requirements every two years. The proposed rule does not change total CE hours but requires four hours in health equity CE every two years which is absorbed into the existing number of CE hours required. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Reasons Supporting Proposal: The goal of health equity CE is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of health equity trainings includes implicit bias training to identify strategies to reduce bias during assessment and diagnosis in an effort to address

structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Four hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The four hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours. The decision to require four hours rather than two was based on the number of hours the board and department believe a massage practitioner needs to gain a basic understanding of health equity to provide safe and equitable health care treatment to a diverse population.

Statutory Authority for Adoption: RCW 43.70.613 and 18.108.025.

Statute Being Implemented: RCW 43.70.613.

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

Name of Proponent: Department of health and board of massage, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Megan Maxey, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4945.

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 Megan Maxey, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4945, fax 360-236-2901, TTY 711, email [megan.maxey@doh.wa.gov](mailto:megan.maxey@doh.wa.gov), [massage.therapy@doh.wa.gov](mailto:massage.therapy@doh.wa.gov).

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

June 6, 2023

Heidi Williams, LMT

Board of Massage Chairperson

for Todd Mountin, PMP

Deputy Chief of Policy

## OTS-4459.2

AMENDATORY SECTION (Amending WSR 21-02-012, filed 12/24/20, effective 9/1/21)

**WAC 246-830-475 Continuing education requirements.** (1) To renew a license, a massage therapist must complete (~~twenty-four~~) 24 hours of continuing education every two years, as provided in (~~chapter 246-12 WAC, Part 7~~) WAC 246-12-170 through 246-12-240. Continuing ed-

ucation must be provided by an individual who has at least three years of professional experience in the subject area being taught. Massage therapists have a duty to ensure the continuing education they complete meets the requirements in this section.

(2) The following categories of continuing education are mandatory:

(a) A minimum of eight hours must be in person and directly supervised involving the participation of the direct application of massage therapy as defined in RCW 18.108.010; and

(b) A minimum of four hours must be in professional ethics, client or patient communication, professional roles and boundaries, or Washington state massage laws and rules. Two of the four hours may be met by attending board of massage meetings in person. A maximum of one hour is allowed per board meeting; and

(c) A minimum of four hours must be in health equity continuing education training as described in WAC 246-12-800 through 246-12-830; and

(d) Maintenance of certification in American Heart Association CPR or equivalent. A maximum of four hours is allowed per reporting period.

(3) For the purposes of this chapter, the remaining hours of continuing education are defined as any of the following activities reasonably related to massage therapy knowledge, skills, and business practices:

(a) Documented attendance at a local, state, national, or international continuing education class, program or conference;

(b) First aid certification or emergency related courses;

(c) Self-study through the use of multimedia devices or the study of books, research materials, or other publications.

The required documentation for this activity is a one page, single spaced, (~~twelve~~) 12 point font synopsis of what was learned written by the licensee. The time spent writing the synopsis is not reportable. Two hours of credit is allowed per report, and no more than two separate reports may be submitted per reporting period;

(d) Teaching a course for the first time;

(e) Business and management courses;

(f) Distance learning. Distance learning includes, but is not limited to, correspondence course, multimedia or webinar, print, audio or video broadcasting, audio or video teleconferencing, computer aided instruction, e-learning or on-line-learning, or computer broadcasting or webcasting; or

(g) Active service on boards or participation in professional or government organizations specifically related to the practice of massage.

(4) A massage therapist must provide acceptable documentation of continuing education upon request or audit. Acceptable forms of documentation include, but are not limited to:

(a) Transcripts;

(b) A letter from the course instructor or the organization providing the continuing education;

(c) Certificate of attendance or completion; or

(d) Other formal documentation that includes the following:

(i) Participant's name;

(ii) Course title;

(iii) Course description;

(iv) Date or dates of course;

(v) Number of hours;

(vi) Indication of being an in-person course, self-study as referenced in subsection (3)(c) of this section, or distance learning as referenced in subsection (3)(f) of this section;

(vii) Instructor's name or sponsor organization name or names;

(viii) Instructor or sponsor contact information; and

(ix) Signature of the program sponsor or course instructor. The self-study allowed in subsection (3)(c) of this section is exempt from this requirement.

(5) Massage therapists who maintain an active status Washington state massage license must meet all continuing education requirements regardless of whether they reside or practice in Washington state.

[Statutory Authority: RCW 18.108.085 (1)(a), 18.108.025 (1)(a), chapter 18.108 RCW and 2020 c 76. WSR 21-02-012, § 246-830-475, filed 12/24/20, effective 9/1/21. Statutory Authority: RCW 18.108.025 (1)(a), 18.108.085 (1)(a), 43.70.041 and chapter 18.108 RCW. WSR 17-14-062, § 246-830-475, filed 6/29/17, effective 7/30/17. Statutory Authority: RCW 18.108.025, 18.108.125, and 43.70.250. WSR 09-11-016, § 246-830-475, filed 5/7/09, effective 6/7/09. Statutory Authority: RCW 18.108.025(1). WSR 95-11-108, § 246-830-475, filed 5/23/95, effective 6/23/95; WSR 94-13-181, § 246-830-475, filed 6/21/94, effective 7/22/94.]

**WSR 23-12-115**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**  
[Filed June 7, 2023, 11:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-04-003.

Title of Rule and Other Identifying Information: WAC 181-82-110  
Update WAC language to more closely align with federal guidance regarding special education qualifications.

Hearing Location(s): On July 13, 2023, at 8 a.m., virtual Zoom meeting. A Zoom link to join the meeting virtually will be available several weeks prior to the meeting on our website <https://www.pesb.wa.gov/about-us/board-meetings/>.

Date of Intended Adoption: July 13, 2023.

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](mailto:pesb@k12.wa.us), by 8 a.m., Monday, July 10, 2023.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email [pesb.k12.wa.us](mailto:pesb.k12.wa.us), by Tuesday, June 30, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Change the name of the out-of-endorsement waiver to special education preendorsement authorization and shorten the validity period from five years to three years, effective September 1, 2023.

Reasons Supporting Proposal: Update WAC language to more closely align with federal guidance regarding special education qualifications.

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 and Implementation: Jisu Ryu, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-867-8510; Enforcement: Erica Hernandez-Scott, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-2443.

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

A cost-benefit analysis is not required under RCW 34.05.328.

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

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Scope of exemption for rule proposal:

Is fully exempt.

June 7, 2023  
Jisu Ryu  
Rules Coordinator



OTS-4377.1

AMENDATORY SECTION (Amending WSR 22-23-047, filed 11/8/22, effective 12/9/22)

**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, transitional, or emergency teacher certificates who are employed with a school district 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 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)~~) authorization:

(a) A teacher who has completed 240 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, deaf education, or deaf education with ASL proficiency endorsement shall be eligible for a preendorsement (~~(waiver)~~) authorization from the special education office under chapter 392-172A WAC. Individuals with a preendorsement (~~(waiver)~~) authorization are considered to have met the requirements for "substantial professional training" for the appropriate endorsement under WAC 392-172A-02090.

(b) On or after September 1, 2023, all remaining requirements for the special education, early childhood special education, teacher of the visually impaired, deaf education, or deaf education with ASL proficiency endorsement shall be completed within (~~(five)) three years.~~

(c) Preendorsement waivers or preendorsement authorizations issued before September 1, 2023, shall have a validity period of five years from the date of issue.

(d) A preendorsement waiver shall be considered equivalent to a preendorsement authorization.

(3) Teachers are not subject to nonrenewal or probation based on evaluation of their teaching effectiveness in the out-of-endorsement assignments under this section.

[Statutory Authority: Chapter 28A.410 RCW. WSR 22-23-047, § 181-82-110, filed 11/8/22, effective 12/9/22; WSR 21-22-104, § 181-82-110, filed 11/2/21, effective 12/3/21; WSR 21-08-024, § 181-82-110, filed 3/29/21, effective 4/29/21; 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.]