

WSR 23-13-096
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 20, 2023, 10:25 a.m.]

Subject of Possible Rule Making: Independent medical examinations (IME)—Notification process—Accompanying person under chapter 296-23 WAC, Radiology, radiation therapy, nuclear medicine, pathology, hospital, chiropractic, physical therapy, drugless therapeutics and nursing—Drugless therapeutics, etc.; and chapter 296-15 WAC, Workers' compensation self-insurance rules and regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.04.020, 51.04.030, and 51.36.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: SHB 1068 from the 2023 legislative session allows a worker to audio and video record an independent medical examination (IME), and included [that] an observer may be present for all examinations with the worker. The updated statute, RCW 51.36.070, requires the department to create rules defining the notification process the worker must follow when they want to record an IME. One existing rule, WAC 296-23-362, states an observer may not attend a psychiatric examination. This rule needs to be updated as the amended statute includes [that] an observer may be present for all examinations.

A separate rule making was initiated on June 6, 2023, under WSR 23-12-072 to address the repeal of the requirement under WAC 296-23-367 that prohibits workers from videotaping or audiotaping an IME.

Process for Developing New Rule: Parties interested in these rules may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments and/or testimony during the public hearing and comment process. Public hearings will be held after the proposal is filed.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Suzy Campbell, Department of Labor and Industries, Insurance Services, Legal Services, P.O. Box 44270, Olympia, WA 98504-4270, phone 360-902-5003, fax 360-902-5029, TTY 360-902-4252, email suzanne.campbell@lni.wa.gov.

June 20, 2023
Joel Sacks
Director