

WSR 23-20-026

PROPOSED RULES

DEPARTMENT OF HEALTH

(Chiropractic Quality Assurance Commission)

[Filed September 25, 2023, 2:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-08-021.

Title of Rule and Other Identifying Information: Chiropractic X-ray technician course requirements, continuing education (CE), and expired status. The chiropractic quality assurance commission (commission) is proposing changes to WAC 246-808-201, 246-808-203, 246-808-205, 246-808-207, 246-808-209 and 246-808-211; and repealing WAC 246-808-215. The commission is proposing changes to rules concerning chiropractic X-ray technician's course requirements including who can instruct the course and updating the requirements for obtaining, maintaining, and returning from expired status. The commission is also adopting health equity CE requirements to reflect requirements in ESSB 5229 (chapter 276, Laws of 2021).

Hearing Location(s): On November 16, 2023, at 9:20 a.m., at the Department of Labor and Industries, 7273 Linderson Way S.W., Room S117 and S118, Tumwater, WA 98501; or virtually via Microsoft Teams. Join on your computer, mobile app, or room device [Date of Intended Adoption: November 16, 2023.](https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F1%2Fmeetup-join%2F19%253ameeting_NzQxNGVhYWUtNTVmMi00MTQ3LTkzYTctNTM0Y2FhMzUzMzRk%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%252211d0e217-264e-400a-8ba0-57dcc127d72d%2522%252c%2522Oid%2522%253a%2522842fd80d-c544-49c8-bc06-392ac3b3c17b%2522%257d&data=05%7C01%7Cbetty.moe%40doh.wa.gov%7Cfd01a7de72324a1293dd08db8940d992%7C11d0e217264e400a8ba057dcc127d72d%7C0%7C0%7C638254683846134818%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCI6Mn0%3D%7C3000%7C%7C&sdata=PLVQbzoCvlsUuP8%2B1U1kt6xmtVkwxPEqCIEB32rn9cg%3D&reserved=0, Meeting ID 218 722 037 266, Passcode XAEB2a; or call in (audio only), +1 564-999-2000,,789373614# United States, Olympia, Phone Conference ID 789 373 614#.</p></div><div data-bbox=)

Submit Written Comments to: Betty J. Moe, Regulatory Analyst, P.O. Box 47858, Olympia, WA 98504-7858, email Betty.Moe@doh.wa.gov, CQAC@doh.wa.gov, by November 7, 2023.

Assistance for Persons with Disabilities: Contact Betty J. Moe, phone 360-236-2868, TTY 711, email CQAC@doh.wa.gov, by November 7, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission is proposing changes in chapter 246-808 WAC pertaining to chiropractic X-ray technicians. The purpose of the commission under RCW 18.25.0151 is to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for credentialing, consistent standards of practice, continuing competency mechanisms, and discipline, and those rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state.

As part of these revisions, the commission is proposing updates to the qualification to obtain, maintain, and return from expired status for chiropractic X-ray technicians.

Reasons Supporting Proposal: RCW 43.70.041 requires the commission to review its administrative rules every five years to ensure that regulations are current and relevant.

RCW 18.25.005 provides that the commission's purpose is to regulate the competency and quality of professional health care providers under their jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline.

The rules meet all stated intents by implementing statutory requirements and updating other sections based on needs identified during the required five-year review.

Statutory Authority for Adoption: RCW 18.25.180 and 43.70.613.

Statute Being Implemented: RCW 18.25.180 and 43.70.613.

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

Name of Proponent: Chiropractic quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Betty J. Moe, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2868.

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 Betty J. Moe, P.O. Box 47858, Olympia, WA 98504-7858, phone 360-236-2868, TTY 711, email Betty.Moe@doh.wa.gov, CQAC@doh.wa.gov.

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

Is not exempt.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement

Summary: Yes, the estimated costs of the proposed rule ranging between \$2,500 and \$25,500 are more than the minor cost threshold of \$1,034.68; however, the commission and department have no reason to believe that there will be a disproportionate impact to small businesses as compared to large businesses.

A brief description of the proposed rule including the current situation/rule, followed by the history of the issue and why the proposed rule is needed. A description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

Brief description of the proposed rule including the current situation/rule. The commission is considering revisions to chapter 246-808 WAC pertaining to chiropractic X-ray technicians. As part of these revisions, the commission is proposing:

- Housekeeping throughout the sections.
- Providing definitions for "classroom hour" as well as "in-person," WAC 246-808-203.
- Clarifying that a chiropractor may employ another chiropractor to operate X-ray equipment, WAC 246-808-205(1).
- Increasing the number of initial training hours from 48 hours of in-person training to 72 hours of classroom instruction, 30 of which must be completed in-person, WAC 246-808-205 (2)(c).

- Expanding the examination to be both a written and practical proficiency examination, rather than just written, and reducing the passing grade to 70 percent from the existing requirement of 75 percent, WAC 246-808-205 (2) (d).
- Exempting the 72-hour course requirement and examination if the applicant has completed chiropractic college within the past five years since they have exceeded the educational requirements for the credential, WAC 246-808-205(3).
- Removing physiology from the course content requirements and adding that the training course include reference to the requirements in WAC 246-808-565,¹ which are the commission rules related to radiographic standards, WAC 246-808-207.
- Expanding who can provide training, WAC 246-808-207 [(1)](c).
- Clarifying when the first CE period is due, WAC 246-808-209.
- Adopting the health equity CE model rules from WAC 246-12-800 through 246-12-830, for chiropractic X-ray technicians to comply with RCW 43.70.631, requiring two hours every four years without increasing the total number of required CE hours, WAC 246-808-209(3).
- Providing clarity about what is required to renew an expired chiropractic X-ray technician, WAC 246-808-211.
- Proposing additional training requirements for chiropractic X-ray technicians who have allowed their credential to expire for five years or longer, WAC 246-808-211.

History of the rule: The commission has been regulating chiropractic X-ray technicians since 1996, and only minimal changes have been made to the requirements for this profession. The commission initially began revisiting these rules under WSR 16-21-080 on October 18, 2016, and held various rules review workshops from 2016-2019. The rules process was briefly halted by the coronavirus disease 2019 (COVID-19) public health emergency.

The commission began revisiting these rules and created the chiropractic X-ray technician committee which met October 10, 2021, December 9, 2021, and February 2, 2022, and presented draft rule language to the commission on March 10, 2022.

The commission determined to refile a new CR-101 on March 24, 2023, as WSR 23-08-021 to incorporate new legislation and direction. Draft rule language was presented to the commission for review on May 18, 2023, and July 13, 2023. The commission also held a public meeting on June 8, 2023, to specifically focus on this rule set.

Why are the proposed rules needed? The commission is proposing revisions to these rules for several reasons:

- The rule has not been updated since 1998. The current rules as drafted do not provide enough information related to renewal of an expired credential and need to be redrafted to meet current rule drafting requirements.
- The commission believes it is important to revisit the course requirements for a chiropractic X-ray technician credentialing, including the number of hours of training required and how the course is delivered. On November 12, 2020, due to the potential threat posed by COVID-19, the commission determined in a policy statement that all course requirements could be completed virtually². After much evaluation and discussion, the commission has determined that part (42 hours) of the course could be delivered using virtual instruction, and 30 hours must be delivered "in-

person," and the commission has proposed definitions for both terms.

- Since the chiropractic X-ray technician was created, there have only been two instructors approved by the commission. Both are in the general Seattle area. Allowing more virtual hours will allow students across the state additional access to training courses.
- The commission believes expanding the qualifications of the course instructors will allow additional instructors to be approved while maintaining the integrity of the training.
- The existing rule did not specify that a chiropractor may also employ another chiropractor to operate X-ray equipment though X-rays are within the scope of practice.
- The commission does not believe that requiring physiology is required for chiropractic X-ray technicians³ as stated in the existing rule. It does not relate to the X-rays taken by chiropractic X-ray technicians.
- The commission believes it is important that chiropractic X-ray technicians learn radiographic standards as required by WAC 246-808-565.
- The chiropractic X-ray technician is a hands-on profession. Adding the practical proficiency examination is an additional way to ensure safe X-rays and increase patient safety. Likewise, clarifying if an applicant fails the examination a third or subsequent time, they are required to take an additional 16-hour course before taking the examination again to assure [ensure] safety.
- The education a chiropractor obtains while in chiropractic school is far greater than the requirements necessary to obtain the chiropractic X-ray technician credential. This is to acknowledge that chiropractors are qualified to operate X-ray equipment without further registration or training. On February 11, 2016, the commission issued an interim policy on license renewal continuing education attestation requirements for chiropractors and chiropractic X-ray technicians⁴. Putting language into rule is the most clear and consistent way to enforce the CE requirements. Similar language has already been added into the chiropractic CE rules (WAC 246-808-150).
- The health equity CE model rules, WAC 246-12-800 through 246-12-830, adopted in November 2022, create four new sections of rule and implement RCW 43.70.613. The health equity CE model rules require completion of two hours of health equity CE every four years for all health professionals credentialed under RCW 18.130.040 with a CE requirement, which applies to chiropractic X-ray technicians. The health equity CE model rules also require that the two CE hours include implicit bias training to identify strategies to reduce bias during assessment and diagnosis. Rule-making authorities for each profession may create standards that meet or exceed the minimum standards in the model rules.
- There is very little information about renewing a chiropractic X-ray technician when the credential has expired in existing rule. The proposed rules refer a provider to chapter 246-12 WAC for additional clarification and provide clarity within the commission rules without imposing additional requirements on the providers.

If a chiropractic X-ray technician has been out of practice (expired) for five years or more, it is important for them to take the initial course again. The potential impacts of inadequate radiographic training are of concern. Adding the practical proficiency examination

is an additional way to ensure safe X-rays and increase patient safety.

Identification and summary of which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS).

Table 1. Summary of Businesses Required to Comply with the Proposed Rule

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	Number of Businesses In Washington State	Minor Cost Threshold
611430	Professional and Management Development Training	394	\$1,034.68

Analysis of probable costs of businesses in the industry to comply with the proposed rule, including the cost of equipment, supplies, labor, professional services, and administrative costs. The analysis considers if compliance with the proposed rule will cause businesses in the industry to lose sales or revenue. Most of the proposed costs to comply with the rule only apply to the applicant themselves; however, there are a few costs to businesses that provide the training course that is regulated under this rule. The following proposed rule sections have been selected for this analysis as they impact businesses:

New WAC 246-808-205 Registration of chiropractic X-ray technicians:

Description: The commission has moved language from WAC 246-808-215 (1), (2), and (3) to this new section and is proposing amendments to the language that may affect businesses:

WAC 246-809-205 (2) (c) moves language from WAC 246-808-215 (2) (a) and amends the number of hours completed and how the course hours can be completed. The proposed rules increase the number of hours of education required to obtain a chiropractic X-ray technician credential from 48 to 72 hours.

During the COVID-19 emergency, the commission began allowing virtual course hours and is now proposing in rule a required 72 hours of training (as opposed to 48 hours in current rule) which is an increase of 24 hours. In addition, the proposed rule adds that 30 of the 72 required hours has to be completed in person, while the remainder of the hours (up to 42 hours) can be completed online using online tools and resources. This is an in-person reduction of hours from 48 to 42 hours, reducing by 6 hours.

WAC 246-808-205 (2) (d) moves language from WAC 246-808-215 (2) (b) and amends the type of examination to add a practical exam. The proposed amendments also clarify situations where an applicant must re-take the exam.

Costs: The commission is proposing an amendment that requires 72 hours of course training (as opposed to 48 hours in current rule) which is an increase of 24 hours. In practice, the training course is currently presented by two approved instructors over four weekends, on both Saturday and Sunday. However, with the changes the commission has made to the proposed rule, the providers of the course will begin offering the in-person portion of the course over two weekends, on both Saturday and Sunday.

Cost for instructors:

Costs to update training: These costs are analyzed below (in section 3, new WAC 246-808-207 Course requirements and approval).

Physical Space: Due to the reduction of in-person hours the commission and department estimate that there could be a potential cost savings or opportunity cost savings from the reduction of in-person hours, due to not needing an in-person space for instruction. Existing programs already have been delivering instruction particularly online so the commission and department do not anticipate any additional costs for online tools and resources.

Other cost considerations:

Software Costs: The commission and department do not anticipate any additional costs for online tools and resources because existing programs have been delivering instruction in the short term due to the COVID-19 public health emergency. However, the commission and department recognize that there is an ongoing cost to maintain existing software to deliver online instruction (e.g., Zoom is \$199/year). While other software may be used by instructors, the commission and department anticipate that software is currently already being used and not an added cost to instructors.

The commission and department anticipate any additional costs incurred to add a practical component to the examination would be included in the cost of the course.

New WAC 246-808-207 Course requirements and approval:

Description: The proposed new rule moves language from **WAC 246-808-215(4)** and amends it in the following ways that potentially affect businesses: Removes the requirement under subsection (5)(4)(a)(iv) that the course requires physiology, and adds that any educational programs approved include reference to WAC 246-808-565 Radiographic standards.⁵

Costs: The commission and the department anticipate there are additional costs for existing course providers to update course materials. The commission and department estimate the total time to implement the course changes (for one training and examination) in compliance with the proposed rule will take between 10 and [no information supplied by agency] hours at the estimated hourly instructor salary ranging between \$250 - \$300, resulting in an estimated one-time cost ranging between \$2,500 to \$25,500.⁶

The commission and department do not anticipate that compliance with the proposed rule will cause businesses in the industry to lose sales or revenue. The commission and department do acknowledge potential impacts to current businesses who provide these services; however, the commission and department do not have any reason to believe that the proposed rules will impose any additional impact to business in comparison to existing rules.

Summary of probable cost(s) to businesses.

Table 2. Summary of probable costs

WAC Section and Title	Probable Cost(s)
WAC 246-808-205 Registration of chiropractic X-ray technicians	Cost to Instructor: Time to update training is analyzed in WAC 246-808-207. Potential cost savings or opportunity cost savings from reduction in physical space due to proposed additional online hours.
WAC 246-808-207 Course requirements and approval	Cost to Instructor: Time to update training estimated one-time cost of \$2,500 to \$25,500. Potential cost savings or opportunity cost savings from reduction in physical space due to proposed additional online hours analyzed in WAC 246-808-205.

Analysis on if the proposed rule may impose more-than-minor costs for businesses in the industry. Includes a summary of how the costs were calculated. Yes, the estimated costs of the proposed rule ranging between \$2,500 and \$25,500 are **more than** the minor cost threshold of \$1,034.68.

Summary of how the costs were calculated. The costs were collected under consultation and by the commission and department aimed to consider costs of compliance with the proposed rule for the two businesses that currently provide training. The estimated cost to businesses of \$2,500 and \$25,500 does not consider any potential cost savings that could be realized from the reduction of in-person classroom hours.

Determination on if the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule. No, we believe the proposed rule does not have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Explanation of the determination. The commission and department do not anticipate a disproportionate impact on small businesses as compared to large businesses. Currently, there are only two businesses that provide training and the commission and department have no reason to believe that they will not incur the same costs to comply with the composed [proposed] rule.

- 1 WAC 246-808-565.
- 2 Chiropractic X-Ray Technicians and Classroom Hours <https://doh.wa.gov/sites/default/files/legacy/Documents/2300/2021/TempGuideChiroX-rayTechsClassroomHours.pdf?uid=647128e3acf7c>.
- 3 Physiology is a branch of biology that deals with the functions and activities of life or living matter (such as organs, tissues, or cells) and the physical and chemical phenomena involved. Physiology Definition & Meaning - Merriam-Webster <https://www.merriam-webster.com/dictionary/physiology>.
- 4 <https://doh.wa.gov/sites/default/files/legacy/Documents/2300/2-11-16.pdf?uid=643dc01d705f6>.
- 5 WAC 246-808-565: <https://app.leg.wa.gov/WAC/default.aspx?cite=246-808-565>.
- 6 Estimates produced in consultation.

A copy of the statement may be obtained by contacting Betty J. Moe, P.O. Box 47858, Olympia, WA 98504-7858, phone 360-236-2868, TTY 711, email Betty.Moe@doh.wa.gov, CQAC@doh.wa.gov.

September 21, 2023
Robert J. Nicoloff
Executive Director

OTS-4694.3

AMENDATORY SECTION (Amending WSR 96-16-074, filed 8/6/96, effective 9/6/96)

WAC 246-808-201 Purpose. The purpose of WAC 246-808-201 through ((246-808-215)) 246-808-211 is to establish eligibility ((eriterion)) criteria for registration of chiropractic X-ray technicians as allowed under RCW 18.25.180.

[Statutory Authority: Chapter 18.25 RCW. WSR 96-16-074, § 246-808-201, filed 8/6/96, effective 9/6/96.]

NEW SECTION

WAC 246-808-203 Definitions. The definitions in this section apply to WAC 246-808-201 through 246-808-211, unless the context clearly requires otherwise:

- (1) "Classroom hour" means 50 minutes of instruction.
- (2) "In-person learning" means real-time instruction where all of the instructor(s) and student(s) meet in the same physical space.

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NEW SECTION

WAC 246-808-205 Registration of chiropractic X-ray technicians.

- (1) A licensed chiropractor shall employ only chiropractors or chiropractic X-ray technicians to operate X-ray equipment.
- (2) To apply for registration as a chiropractic X-ray technician, the applicant shall submit:
 - (a) A completed application on forms provided by the commission;
 - (b) Applicable fees as required in WAC 246-808-990;
 - (c) Proof of satisfactory completion of a course of instruction of not less than 72 classroom hours, 30 of which are in-person learning. The course must have been approved by the commission in accordance with WAC 246-808-207; and
 - (d) Verification of passing a written and practical proficiency examination in radiologic technology, approved by the commission in accordance with WAC 246-808-207. A passing grade shall be 70 percent.
 - (i) If the applicant fails their first attempt at the written and practical proficiency examination, the applicant may take the examination one additional time without additional classroom instruction.
 - (ii) If the applicant fails their second and any subsequent attempt at the written and practical proficiency examination, the applicant shall complete an additional course of instruction of not less than 16 hours prior to retaking the examination.
- (3) Exceptions allowing registration without meeting the requirements of subsection (2)(c) and (d) of this section.
 - (a) A chiropractic X-ray technician applicant who holds a current active registration, license, or certification from a national certifying agency or other governmental licensing agency whose standards for registration, licensure, or certification are equal to or exceed the standards under these rules.
 - (b) A person who has graduated from an accredited and commission approved chiropractic school or college within five years prior to submitting their application.

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NEW SECTION

WAC 246-808-207 Course requirements and approval. (1) A person may request commission approval of a course of classroom instruction for chiropractic X-ray technicians by submitting the following information to the commission:

(a) An outline of the course of instruction, which shall include:

- (i) Physics and equipment;
- (ii) Principles of radiographic exposure;
- (iii) Radiation protection;
- (iv) Anatomy;
- (v) Radiographic positioning and procedures; and
- (vi) Topics that address the requirements listed in WAC 246-808-565.

(b) A written and practical proficiency examination.

(c) A qualified instructor. A qualified instructor must verify during the preceding five years that their license has not been suspended, revoked, or otherwise conditioned or restricted and:

(i) Be a diplomate of the American Chiropractic Board of Radiology;

(ii) A chiropractor who has been licensed for five years, with at least five years in practice that includes the taking of X-rays; or

(iii) A chiropractor who has on-campus or postgraduate faculty status in the field of radiology.

(d) Any other information deemed necessary by the commission to make a determination.

(2) All information submitted pursuant to this section must be consistent with chapters 18.25 RCW and 246-808 WAC and must cover all aspects of the chiropractic scope of practice as it pertains to X-rays.

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NEW SECTION

WAC 246-808-209 Continuing education for chiropractic X-ray technicians. (1) A chiropractic X-ray technician shall complete six hours of continuing education in compliance with WAC 246-12-170 through 246-12-240. Verification of completion of the continuing education requirement is due upon renewal. If the first renewal period is less than one full year from the date of licensure, no continuing education will be due for the first renewal period.

(2) The commission approves continuing education of the subject matter listed in WAC 246-808-207 (1)(a). Prior approval of continuing education programs is not required by the commission.

(3) Health equity requirements.

(a) Beginning July 1, 2024, as part of the continuing education requirements, a chiropractic X-ray technician must complete a minimum of two hours of training in health equity every four years in accordance with WAC 246-12-800 through 246-12-830.

(b) Hours spent completing health equity continuing education under this section count toward meeting the continuing education requirements for chiropractic X-ray technicians for renewal.

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NEW SECTION

WAC 246-808-211 Expired credential—Requirements for reactivating a chiropractic X-ray technician. If a chiropractic X-ray technician registration is expired, to return to active status, the chiropractic X-ray technician must meet the requirements of WAC 246-12-040 and comply with the following:

(1) If the chiropractic X-ray technician registration has been expired for less than one year, the chiropractic X-ray technician must submit to the commission a written attestation of completing at least six hours of continuing education within the last 12 months in any of the categories listed in accordance with WAC 246-808-207 (1) (a), and meet the requirements as listed in WAC 246-12-040 (3) (a).

(2) If the chiropractic X-ray technician registration has been expired for one year or more, but less than three years, the chiropractic X-ray technician must complete at least 12 hours of continuing education in the two years prior to the date of application in any of the categories listed in accordance with WAC 246-808-207 (1) (a), and meet the requirements as listed in WAC 246-12-040 (3) (b).

(3) If the chiropractic X-ray technician registration has been expired for three years, but less than five years, the chiropractic X-ray technician must complete at least 12 hours of continuing education in the two years prior to the date of application in any of the categories listed in accordance with WAC 246-808-207 (1) (a), and meet the requirements as listed in WAC 246-12-040 (3) (c).

(4) If the chiropractic X-ray technician registration has been expired for five years or more, the chiropractic X-ray technician must meet the course requirements and pass the written and practical proficiency examination as described in WAC 246-808-207 less than one year prior to the date the application was received and meet the requirements as listed in WAC 246-12-040 (3) (c), excluding (c) (ix).

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