

**WSR 24-17-141**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 21, 2024, 10:00 a.m.]

Subject of Possible Rule Making: Corecording of independent medical examinations (IMEs). Chapter 296-23 WAC, Radiology, radiation therapy, nuclear medicine, pathology, hospital, chiropractic, physical therapy, drugless therapeutics and nursing—Drugless therapeutics, etc.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.32.110, 51.36.070, 51.04.020, and 51.04.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: SHB 1068, chapter 166, Laws of 2023, allows a worker to audio and visually record an IME. Significant impacts of this rule change include scheduling and claim resolution delays. Some IME providers want to corecord or have a third party record when a worker wants a recording. Some workers and worker advocates express concerns about the need for another party to have a recording, and the chain of custody for recordings taken by someone else. IME providers may already be conducting corecording on their own when they ask and are given the worker's consent.

The department of labor and industries (L&I) is considering adding a new section to chapter 296-23 WAC to establish standards for corecording by the IME provider when the worker consents. Rules will establish standards for corecording. Workers retain the right to do their own recording.

L&I is separately conducting rule making using pilot rule making to consider rules for third party recording of the IME exam with consent from the worker.

Other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None.

Process for Developing New Rule: Parties interested in participating in the development of these rules may contact the individual listed below. Interested parties may also participate during the public comment period by submitting written comments or giving oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kristen Baldwin-Boe, L&I, Insurance Services, Health Services Analysis, P.O. Box 44322, Olympia, WA 98504-4322, phone 360-902-6815, fax 360-902-4249, email Kristen.Baldwin-Boe@lni.wa.gov.

Additional comments: For more information on L&I rule making, visit the Rulemaking Activity web page at <https://www.lni.wa.gov/rulemaking-activity/>.

August 21, 2024  
Joel Sacks  
Director