

WSR 06-14-028
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed June 27, 2006, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-19-137.

Title of Rule and Other Identifying Information: Chapter 392-170 WAC, Special services programs for highly capable students.

Hearing Location(s): Office of Superintendent of Public Instruction, Old Capitol Building, 600 Washington Street S.E., Olympia, WA 98504-7200, on August 9, 2006, at 10:00 a.m.-11:00 p.m.

Date of Intended Adoption: September 6, 2006.

Submit Written Comments to: Gayle Pauley, Office of Superintendent of Public Instruction, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail gpauley@ospi.wednet.edu, fax (360) 586-3305, by July 28, 2006.

Assistance for Persons with Disabilities: Contact Dodie Richter by July 17, 2006, TTY (360) 664-3631 or (360) 725-6194.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rules need to be clarified and added according to RCW 28A.185.050. There are not substantial changes overall. Changes reflect RCW requirements to add a program evaluation and monitoring.

Reasons Supporting Proposal: Required changes under RCW 28A.185.050.

Statutory Authority for Adoption: RCW 28A.300.070.

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: Chapter 392-170 WAC is being amended to meet state legislated requirements and to clarify specific sections. The clarifications are made to explain the following:

1. What information must be included in the HCP application.

2. Clarify what "plan" means.

3. Add WAC 392-170-087 Program review and monitoring, as required under RCW 28A.185.050.

Name of Proponent: Gayle Pauley, Director Title I/LAP & Title V, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Pauley, Office of Superintendent of Public Instruction, Old Capitol Building, 600 Washington Street S.E., Olympia, WA 98504-7200, (360) 725-6100; Implementation: Bob Harmon, Office of Superintendent of Public Instruction, Old Capitol Building, 600 Washington Street S.E., Olympia, WA 98504-7200, (360) 725-6170; and Enforcement: Terry Bergeson, Office of Superintendent of Public Instruction, Old Capitol Building, 600 Washington Street S.E., Olympia, WA 98504-7200, (360) 725-6004.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No additional costs to rule changes are anticipated.

A cost-benefit analysis is not required under RCW 34.05.328. No additional costs to rule changes are anticipated.

June 14, 2006

Dr. Terry Bergeson
State Superintendent
of Public Instruction

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-030 Substance of annual school district application. The school district's annual application shall contain the following:

(1) Number of students to be served by grade level;

(2) Brief description of plan to identify students;

(3) Program (~~(goals)~~) services;

(4) Instructional program description; (~~(and)~~)

(5) Professional development;

(6) Program evaluation and fiscal report; and

(7) Assurances signed by the school district's authorized representative that the district shall comply with all applicable statutes and regulations.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-078 Program services. Education program (~~(services)~~) plans for each identified highly capable student or plans for a group of students with similar academic abilities shall be developed based on the results of the assessed academic need of that student or group of students. A variety of appropriate program services shall be made available. Once services are started, a continuum of services shall be provided and may include kindergarten through twelfth grade.

NEW SECTION

WAC 392-170-087 Program review and monitoring. In order to ensure that school districts are meeting the requirements of this chapter, the superintendent of public instruction shall monitor district programs no less than once every five years. Monitoring under this section may be conducted concurrently with other program reviews. The reviews shall monitor program components including:

(1) The process used by the district to identify highly capable students;

(2) Assessment data and other indicators to determine the degree to which districts are meeting the academic needs of identified students; and

(3) Highly capable program expenditures.

WSR 06-14-059
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed June 30, 2006, 9:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-06-083.

Title of Rule and Other Identifying Information:

- Adopting new WAC 388-106-0745 through 388-106-0765, Washington Medicaid integration partnership (WMIP) services; and
- Amending WAC 388-515-1505 Financial eligibility requirements for long-term care services under COPEs, New Freedom, PACE, MMIP, and WMIP.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503, (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on August 8, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 9, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on August 8, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by August 4, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rules are to add long-term care service and eligibility criteria for implementation of the long-term care portion of the Washington Medicaid integration partnership (WMIP), a new and innovative managed care program in the state of Washington that combines medical, mental health, chemical dependency and long-term care services under one coordinated service delivery model and capitated payment structure, thereby improving client outcomes through increased coordination.

New Freedom consumer directed services financial eligibility requirements have also been added to WAC 388-515-1505. Proposed rules describing the New Freedom program in chapter 388-106 WAC were filed as WSR 06-11-018.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 42 C.F.R. 441.302(a); Social Security Act section 1915(c) waiver rules; 42 C.F.R. 438.

Statute Being Implemented: RCW 74.08.090, 42 C.F.R. 441.302(a); Social Security Act section 1915(c) waiver rules; 42 C.F.R. 438.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Kristi Knudsen, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-3213; Implementation and Enforcement: Karen Fitzharris, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2446.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules and determined that no new costs will be imposed on small businesses or nonprofit organizations.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Tiffany Sevruck, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2538, fax (360) 407-7582, e-mail sevruta@dshs.wa.gov.

June 28, 2006

Andy Fernando, Manager
Rules and Policies Assistance Unit

Washington Medicaid Integration Partnership (WMIP)

NEW SECTION

WAC 388-106-0745 What services may I receive under WMIP? (1) Once you are determined eligible, your care plan could include, but is not limited to, any of the following long-term care services:

- (a) Care coordination;
- (b) Personal care services in your own home or in a residential facility;
- (c) Home health aide;
- (d) Adult day services;
- (e) Environmental modifications;
- (f) Personal emergency response system (PERS);
- (g) Skilled nursing;
- (h) Specialized medical equipment and supplies;
- (i) Home delivered meals;
- (j) Residential care;
- (k) Nursing facility care.

(2) The care plan may also include medical, chemical dependency, and/or mental health services.

NEW SECTION

WAC 388-106-0750 Am I eligible to enroll in WMIP?

(1) To enroll in WMIP you must:

- (a) Be aged, blind, or disabled;
- (b) Be twenty-one years of age or older;
- (c) Receive, or be eligible for, categorically needy medical assistance per WAC 388-500-0005; and
- (d) Not be enrolled in any other comparable third party insurance coverage plan that purchases services on a prepaid basis (for example, a prepaid health plan).

(2) To be eligible to receive long-term care services under this program, you must meet functional eligibility for one of the long-term care programs per WAC 388-106-0210(2), WAC 388-106-0310(4), or WAC 388-106-0355(1) and financial eligibility for noninstitutional categorically

needy, or institutional categorically needy as described in chapter 388-513 WAC and WAC 388-515-1505.

(3) Ongoing functional and financial eligibility for long-term care services will be determined at least annually by the state.

(4) If you are determined ineligible for long-term care services, you may continue to receive medical, mental health and chemical dependency treatment services through WMIP as long as you continue to meet the criteria listed in subsection (1) above.

NEW SECTION

WAC 388-106-0755 How do I pay for WMIP services? Depending on your income and resources, you may be required to pay for part of your long-term care services you receive through WMIP. The department will determine what amount, if any, you must contribute toward the cost of your care.

NEW SECTION

WAC 388-106-0760 How do I disenroll from WMIP? You may choose to disenroll from WMIP for any reason at any time. See WAC 388-538-061 for additional information on ending enrollment in WMIP.

NEW SECTION

WAC 388-106-0765 What is the fair hearing process for enrollee appeals of managed care organization actions? See WAC 388-538-112 for additional information specific to the managed care fair hearing process. For hearing information specific to long-term care services eligibility, see WAC 388-106-1305.

AMENDATORY SECTION (Amending WSR 06-03-079, filed 1/12/06, effective 2/12/06)

WAC 388-515-1505 Financial eligibility requirements for long-term care services under COPES, New Freedom, PACE, ~~((and))~~ MMIP, and WMIP. (1) This section describes the financial eligibility requirements and the rules used to determine a client's participation in the total cost of care for home or community-based long-term care (LTC) services provided under the following programs:

- (a) Community options program entry system (COPES);
- (b) Program of all-inclusive care for the elderly (PACE);
- ~~((and))~~
- (c) Medicare/Medicaid integration project (MMIP);
- (d) Washington Medicaid integration partnership (WMIP); and
- (e) New Freedom Consumer Directed Services (New Freedom).

(2) To be eligible, a client must:

- (a) Meet the program and age requirements for the specific program, as follows:
 - (i) COPES, per WAC 388-106-0310;
 - (ii) PACE, per WAC 388-106-0705; ~~((or))~~
 - (iii) MMIP waiver services, per WAC 388-106-0725;
 - (iv) WMIP waiver services, per WAC 388-106-0750; or

(v) New Freedom, per WAC 388-106-1410.

(b) Meet the aged, blind or disability criteria of the Supplemental Security Income (SSI) program as described in WAC 388-511-1105(1);

(c) Require the level of care provided in a nursing facility as described in WAC 388-106-0355;

(d) Be residing in a medical facility as defined in WAC 388-500-0005, or likely to be placed in one within the next thirty days in the absence of home or community-based LTC services provided under one of the programs listed in subsection (1) of this section;

(e) Have attained institutional status as described in WAC 388-513-1320;

(f) Be determined in need of home or community-based LTC services and be approved for a plan of care as described in subsection (2)(a)(i), (ii), or (iii);

(g) Be able to live at home with community support services and choose to remain at home, or live in a department-contracted:

- (i) Enhanced adult residential care (EARC) facility;
- (ii) Licensed adult family home (AFH); or
- (iii) Assisted living (AL) facility.

(h) Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1364, 388-513-1365 and 388-513-1366; and

(i) Meet the resource and income requirements described in subsections (3), (4), and (5) or be an SSI beneficiary not subject to a penalty period as described in subsection (2)(h).

(3) Refer to WAC 388-513-1315 for rules used to determine nonexcluded resources and income.

(4) Nonexcluded resources above the standard described in WAC 388-513-1350(1):

(a) Are allowed during the month of an application or eligibility review, when the combined total of excess resources and nonexcluded income does not exceed the special income level (SIL).

(b) Are reduced by medical expenses incurred by the client (for definition, see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

- (i) Health insurance and Medicare premiums, deductions, and co-insurance charges; and
- (ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan.

(c) Not allocated to participation must be at or below the resource standard. If excess resources are not allocated to participation, then the client is ineligible.

(5) Nonexcluded income must be at or below the SIL and is allocated in the following order:

- (a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;
- (b) Maintenance and personal needs allowances as described in subsection (7), (8), and (9) of this section;

(c) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;

(d) Income garnished for child support or withheld according to a child support order:

- (i) For the time period covered by the maintenance amount; and

(ii) Not deducted under another provision in the post-eligibility process.

(e) Monthly maintenance needs allowance for the community spouse not to exceed that in WAC 388-513-1380 (6)(b) unless a greater amount is allocated as described in subsection (6) of this section. This amount:

(i) Is allowed only to the extent that the client's income is made available to the community spouse; and

(ii) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide the amount described in WAC 388-513-1380 (6)(b)(i)(A); and

(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for the community spouse's principal residence. These expenses are:

(I) Rent;

(II) Mortgage;

(III) Taxes and insurance;

(IV) Any maintenance care for a condominium or cooperative; and

(V) The food assistance standard utility allowance (for LTC services this is set at the standard utility allowance (SUA) for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative;

(VI) LESS the standard shelter allocation listed in WAC 388-513-1380 (7)(a).

(f) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse based on the living arrangement of the dependent. If the dependent:

(i) Resides with the community spouse, the amount is equal to one-third of the community spouse income allocation as described in WAC 388-513-1380 (6)(b)(i)(A) that exceeds the dependent family member's income;

(ii) Does not reside with the community spouse, the amount is equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members. Child support received from an absent parent is the child's income;

(g) Incurred medical expenses described in subsection (4)(b) not used to reduce excess resources, with the following exceptions:

(i) Private health insurance premiums for PACE, MMIP, or WMIP;

(ii) ~~Medicare advantage plan premiums for PACE~~).

(6) The amount allocated to the community spouse may be greater than the amount in subsection (5)(e) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) A client who receives SSI does not use income to participate in the cost of personal care, but does use SSI income to participate in paying costs of board and room. When such a client lives:

(a) At home, the SSI client does not participate in the cost of personal care;

(b) In an enhanced adult residential center (EARC), adult family home (AFH), or assisted living (AL), the SSI client:

(i) Retains a personal needs allowance (PNA) of fifty-eight dollars and eighty-four cents;

(ii) Pays the facility for the cost of board and room. Board and room is the SSI federal benefit rate (FBR) minus fifty-eight dollars and eighty-four cents; and

(iii) Does not participate in the cost of personal care if any income remains.

(8) An SSI-related client living:

(a) At home, retains a maintenance needs amount equal to the following:

(i) Up to one hundred percent of the one-person FPL, if the client is:

(A) Single; or

(B) Married, and is:

(I) Not living with the community spouse; or

(II) Whose spouse is receiving long-term care (LTC) services outside of the home.

(ii) Up to one hundred percent of the one-person FPL for each client, if both spouses are receiving COPEs, New Freedom, PACE, ~~(or)~~ MMIP, or WMIP services;

(iii) Up to the one-person medically needy income level (MNIL) for a married client who is living with a community spouse who is not receiving COPEs, New Freedom, PACE, ~~(or)~~ MMIP, or WMIP.

(b) In an EARC, AFH, or AL, retains a maintenance needs amount equal to the SSI FBR and:

(i) Retains a personal needs allowance (PNA) of fifty-eight dollars and eighty-four cents from the maintenance needs; and

(ii) Pays the remainder of the maintenance needs to the facility for the cost of board and room. (Refer to subsection (11) in this section for allocation of the balance of income remaining over maintenance needs.)

(9) A client who is eligible for the general assistance expedited Medicaid disability (GAX) program does not participate in the cost of personal care. When such a client lives:

(a) At home, the client retains the cash grant amount authorized under the general assistance program;

(b) In an AFH, the client retains a PNA of thirty-eight dollars and eighty-four cents, and pays remaining income and GAX grant to the facility for the cost of board and room; or

(c) In an EARC or AL, the client only receives a PNA of thirty-eight dollars and eighty-four cents and retains it.

(10) The total of the following amounts cannot exceed the SIL:

(a) Maintenance and personal needs allowances as described in subsections (7), (8), and (9);

(b) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (5)(a); and

(c) Guardianship fees and administrative costs in subsection (5)(c).

(11) The client's remaining income after the allocations described in subsections (5) through (9) is the client's participation in the total cost of care.

WSR 06-14-085
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Recovery Services Administration)
 [Filed July 3, 2006, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-07-145.

Title of Rule and Other Identifying Information: WAC 388-865-0201 and 388-865-0203, community mental health and involuntary treatment programs.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), on August 8, 2006, at 10:00 a.m.

Date of Intended Adoption: Not earlier than August 9, 2006.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on August 8, 2006.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by August 4, 2006, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The mental health division would like to repeal WAC 388-865-0201 and 388-865-0203 as they are no longer accurate or appropriate because of the changes made to chapter 71.24 RCW by 2SSB 6793 (sections 107 and 201, chapter 333, Laws of 2006).

Reasons Supporting Proposal: Repeal of these rules is necessary to be consistent with the statutes.

Statutory Authority for Adoption: RCW 71.24.035.

Statute Being Implemented: Chapter 71.24 RCW as amended by chapter 333, Laws of 2006.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Paul DesJardien, P.O. Box 45320, Olympia, WA 98504-5230, (360) 902-0873.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The mental health division (MHD) has analyzed the proposed repeal of the rules and concludes that the repeal does not impose any additional compliance costs or administrative burdens on small businesses. Therefore, preparation of a small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Paul DesJardien, P.O. Box 45320,

Olympia, WA 98504-5230, phone (360) 902-0873, fax (360) 902-0809, e-mail desjajp@dshs.wa.gov.

June 27, 2006

Andy Fernando, Manager
 Rules and Policies Assistance Unit

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-865-0201	Allocation of funds to RSN/PHPs.
WAC 388-865-0203	Allocation formula for state hospital beds.

WSR 06-14-091
PROPOSED RULES
DEPARTMENT OF REVENUE
 [Filed July 5, 2006, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-10-092.

Title of Rule and Other Identifying Information: Amending WAC 458-16-180 Cemeteries.

Hearing Location(s): Capital Plaza Building, 4th Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on August 8, 2006, at 10:00 a.m.

Date of Intended Adoption: August 25, 2006.

Submit Written Comments to: Kim M. Qually, P.O. Box 47467, Olympia, WA 98504-7467, e-mail kimq@dor.wa.gov, fax (360) 664-0693, by August 8, 2006.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-16-180 explains the property tax exemption available under RCW 84.36.020 to public burying grounds and cemeteries.

Reasons Supporting Proposal: WAC 458-16-180 needs to be updated so that it more adequately informs owners of public burying grounds and cemeteries about their eligibility to receive a property tax exemption under RCW 84.36.020. The rule was last amended in 1994. The department believes the information in the rule needs to be expanded and its provisions clarified.

Statutory Authority for Adoption: RCW 84.36.865.

Statute Being Implemented: RCW 84.36.020.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6113; Implementation and Enforcement: Brad Flaherty, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

No small business economic impact statement has been prepared under chapter 19.85 RCW. WAC 458-16-180 does not impose any burden upon a small business.

A cost-benefit analysis is not required under RCW 34.05.328. WAC 458-16-180 is not a significant legislative rule as defined in RCW 34.05.328.

July 5, 2006
Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-07-008, filed 3/3/94, effective 4/3/94)

WAC 458-16-180 Public burying grounds or cemeteries. (1) **Introduction.** This section explains the property tax exemption available under ~~((the provisions of))~~ RCW 84.36.020 to public burying grounds or cemeteries.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) ~~("Burial" means the placement of uncremated human remains in the ground.~~

(b) ~~"Dedicated" means a written declaration of dedication of the property to which the exemption is to be applied has been filed with the county auditor in the county where the property is located, dedicating the property exclusively as a public burying ground or cemetery.~~

(c) ~~"Entombment" means the placement of uncremated human remains in a crypt in a mausoleum.~~

(d) ~~"Interment" means the disposition of human remains by cremation and inurnment, entombment, or burial in a place used, or intended to be used, and dedicated, for a public burying ground or cemetery.~~

(e) ~~"Inurnment" means placing cremated remains in an urn or other container.~~

(f) ~~"Necessary administration and maintenance" means those administrative and maintenance functions necessary to administer and maintain the cemetery and the necessity of which would be nonexistent but for the presence of the cemetery.~~

(g) ~~"Public burying grounds or cemeteries" means places used, and dedicated, for the interment of human remains, and also includes:~~

(i) ~~An "abandoned cemetery," "historical cemetery," and "historic grave" as defined in chapter 68.60 RCW;~~

(ii) ~~Indian graves as protected under chapter 27.44 RCW; and~~

(iii) ~~Nonprofit cemeteries owned or operated by any recognized religious denomination or any of its churches that qualifies for a property tax exemption under the provisions relating to churches under the provisions of RCW 84.36.020.~~

(3) **Exemption.** The following property shall be exempt from taxation when used without discrimination as to race, color, national origin, or ancestry:

(a) ~~All lands used, or to the extent used, exclusively for public burying grounds or cemeteries.~~

(b) ~~All buildings required for and used, or to the extent used, exclusively for necessary administration and maintenance of public burying grounds or cemeteries including, but not limited to, the groundskeeping or maintenance building and the administration building. This exemption does not~~

~~generally include a residential building; however, a caretaker's residence may be exempt if the following conditions are met:~~

~~(i) The caretaker's duties include regular surveillance and patrolling of the property;~~

~~(ii) The size of the residence is reasonable and appropriate in light of the caretaker's duties and the size of the exempt property;~~

~~(iii) The caretaker, or the caretaker's substitute, is required on the premises at all hours the cemetery is closed or at least during the time when vandalism or other damage is most likely to occur; and~~

~~(iv) The caretaker receives the use of the residence as part of his or her compensation and does not pay rent. Reimbursement of utilities expenses created the caretaker's presence will not be considered as rent.~~

~~(4) Applications and annual certifications. Nonprofit cemetery corporations or associations are only required to file an initial application for exemption as described in WAC 458-16-110. For profit cemetery corporations or associations shall file renewal applications and annual certifications as required by WAC 458-16-110.) "Burial" means the placement of human remains in a grave.~~

~~(b) "Cemetery" means any one, or a combination of more than one, of the following in a place actually used, or to the extent actually used, for the placement of human remains and dedicated for cemetery purposes:~~

~~(i) A "burial park," for earth interments, that is a tract of land actually used for the burial of human remains in the ground;~~

~~(ii) A "mausoleum," for crypt interments, that is a building or structure for the entombment of human remains in crypts, which are spaces in which human remains are placed; and~~

~~(iii) A "columbarium," for permanent niche interments, that is a structure, room, or other space in a building or structure containing niches in which cremated human remains are placed.~~

~~(c) "Cremation" or "cremated" means the reduction of human remains to bone fragments in a crematory by means of incineration. The end products of cremation are "cremated human remains."~~

~~(d) "Crematory" means a building or area of a building that houses one or more cremation chambers actually used for the cremation of human remains.~~

~~(e) "Crematory and columbarium" means a building or structure containing both a crematory and a columbarium.~~

~~(f) "Crypt" means a space in a mausoleum for the placement of human remains.~~

~~(g) "Dedicated" means a written declaration dedicating the property exclusively as a public burying ground or for cemetery purposes was filed with the auditor of the county in which the property is located.~~

~~(h) "Entombment" means the placement of human remains in a crypt.~~

~~(i) "Grave" means a space of ground in a burial park actually used, or to the extent actually used, for burials.~~

~~(j) "Human remains" or "remains" means the body of a deceased person and includes cremated human remains.~~

(k) "Interment" means the placement of human remains in a cemetery.

(l) "Inurnment" or "inuring" means placing cremated human remains in a cemetery.

(m) "Necessary administration and maintenance" means those functions necessary to administer and maintain the cemetery or public burying grounds and the necessity of which would be nonexistent but for the presence of the cemetery or public burying grounds.

(n) "Public burying grounds" means places actually used and dedicated for the interment or inurnment of human remains, and also includes:

(i) An "abandoned cemetery," "historical cemetery," and "historic grave" as defined in chapter 68.60 RCW (see RCW 68.60.010);

(ii) Native Indian burial grounds and historic graves protected under chapter 27.44 RCW; and

(iii) Nonprofit cemeteries owned or operated by any recognized religious denomination or any of its churches that qualifies for a property tax exemption as a church under RCW 84.36.020.

(o) "Scattering garden" means a designated area in a cemetery for the scattering of cremated human remains in any lawful manner.

(3) **Exemption.** There are several types of public burying grounds or cemeteries that are exempt from property tax under RCW 84.36.020. Public burying grounds or cemeteries operated by both nonprofit and for profit organizations are eligible for this exemption. Even though Title 68 RCW mentions the exemption of cemeteries from taxation, that portion of the Revised Code of Washington relates generally to the operation of cemeteries. Qualification for an exemption from property taxation is controlled by the specific provisions of RCW 84.36.020. The following property is exempt from taxation when used without discrimination as to race, color, national origin, or ancestry:

(a) All lands actually used, or to the extent actually used, exclusively for public burying grounds or cemeteries.

(b) All buildings and personal property required for and actually used, or to the extent actually used, exclusively for the necessary administration and maintenance of public burying grounds or cemeteries. Buildings and personal property that may be exempt include an/a:

(i) Administration or office building;

(ii) Art and statuary, in place, that decorate or enhance the esthetics of the public burying ground or cemetery;

(iii) Burial park;

(iv) Columbarium;

(v) Grounds keeping or maintenance building;

(vi) Items used exclusively for the general upkeep and operation of the public burying ground or cemetery. These items may include, but are not limited to, lawn mowers, uncensored mobile equipment, tools, machinery, office equipment, and equipment used to dig graves;

(vii) Mausoleum; and

(viii) Scattering garden.

(4) **Caretaker's on-site residence - possibly exempt.** This exemption does not generally include a residential building. However, a caretaker's residence may be exempt if all of the following conditions are met:

(a) The caretaker's duties include regular surveillance and patrolling of the property;

(b) The size of the residence is reasonable and appropriate in light of the caretaker's duties and the size of the exempt property;

(c) The presence of the caretaker, or the caretaker's substitute, is required on the premises at all hours the cemetery is closed or at least during times when vandalism or other damage is most likely to occur; and

(d) The caretaker receives the use of the residence as part of his or her compensation and does not pay rent. Reimbursement of utilities expenses created by the caretaker's presence will not be considered as rent.

(5) **What property is not exempt?** The exemption conferred by RCW 84.36.020 does not extend to the following:

(a) A chapel, funeral home, or mortuary in which funeral services are conducted;

(b) A crematory;

(c) Equipment and supplies of any funeral home or mortuary located on or adjacent to the exempt property of a public burying ground or cemetery;

(d) Statuary, grave markers, headstones, and other items for sale; and

(e) Items used to promote sales (i.e., samples or displays) of graves, urns, caskets, headstones, and other items generally sold in connection with a public burying ground, cemetery, funeral, cremation, grave, or burial site.

(6) **Applications and annual declarations.** Nonprofit cemetery corporations or associations are only required to file an initial application for exemption as described in WAC 458-16-110. For profit cemetery corporations or associations must file renewal applications and annual declarations as required by WAC 458-16-110.

WSR 06-14-094

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed July 5, 2006, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-184.

Title of Rule and Other Identifying Information: WAC 246-828-025 Definitions, 246-828-045 Interim permit requirements, 246-828-04503 Postgraduate professional work experience, 246-828-04505 Supervisor delegation, and 246-828-075 Student supervisors—Scope and definitions.

Hearing Location(s): Ramada Inn Spokane Airport, P.O. Box 19230, Spokane, WA 99219-9230, on August 11, 2006, at 9:15 a.m.

Date of Intended Adoption: August 11, 2006.

Submit Written Comments to: Karen Kelley, P.O. Box 47869, Olympia, WA 98504-7869, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4918, by August 4, 2006.

Assistance for Persons with Disabilities: Contact Karen Kelley by August 4, 2006, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal

clarifies and amends the definition of "Board-approved institution of higher learning" to reflect the current accrediting body and also addresses the newly established Au.D. degree that encompasses the required postgraduate work experience. The proposal also clarifies the interim permit and postgraduate professional work experience requirements. WACs 246-828-04503 and 246-828-04505 are titled as "new sections," but in fact are just existing rule language that has been split out and renumbered. WAC 246-828-04503 and 246-828-04505 do not impose any new restrictions on licensees.

Reasons Supporting Proposal: There has been concern from applicants, licensees, and department of health staff regarding the lack of clarity in regard to supervision during the postgraduate professional work experience. By further defining the postgraduate professional work experience supervision standards, it will add clarity and assist in complying with these standards.

Statutory Authority for Adoption: RCW 18.35.161.

Statute Being Implemented: RCW 18.35.161.

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

Name of Proponent: Board of hearing and speech, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Karen Kelley, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4950.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not necessary under chapter 18.35 RCW. These rules do not impose additional costs on licensed hearing instrument fitter/dispensers, audiologists, and speech-language pathologists.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Karen Kelley, Board of Hearing and Speech, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4950, fax (360) 236-4918, e-mail karen.kelley@doh.wa.gov.

July 5, 2006
Bob Nicoloff
for Karen Kelley
Deputy Executive Director

AMENDATORY SECTION (Amending WSR 98-13-109, filed 6/17/98, effective 7/18/98)

WAC 246-828-025 Definitions. (1) "Board-approved institution of higher education" means an institution offering a (~~Washington higher education coordinating board-accredited~~) program in audiology or speech-language pathology leading to a master's degree, or its equivalent, or a doctorate degree or its equivalent, that has been accredited by the council on academic accreditation in audiology and speech-language pathology, or an equivalent program (~~as determined by the board~~).

(2) "Postgraduate professional work experience" means a supervised full-time professional experience, or the part-time equivalent, as defined in these rules, involving direct patient/client contact, consultations, record keeping, and

administrative duties relevant to a bona fide program of clinical work.

(a) "Full-time professional experience" means (~~a minimum of~~) at least 30 hours per week over 36 weeks. Postgraduate professional work experience (~~cannot~~) must be obtained (~~in fewer than~~) over a period of at least 36 weeks.

(b) "Part-time equivalent" means any of the following:

(i) 15-19 hours per week over 72 weeks;

(ii) 20-24 hours per week over 60 weeks;

(iii) 25-29 hours per week over 48 weeks.

~~((c) Professional experience of fewer than 15 hours per week cannot be counted toward postgraduate professional work experience.)~~ (3) Applicants who obtain an Au.D. at a board approved institution of higher education are considered to have met the postgraduate professional work experience requirement.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-045 Interim permit. (~~Interim permit requirements~~)

(1) The department (~~will~~) shall issue an interim permit to any applicant who has shown to the satisfaction of the department that the applicant:

(a) Has completed the academic course work and clinical practicum as required in RCW 18.35.040.

(b) Is supervised by a speech-language pathologist or audiologist licensed under chapter 18.35 RCW, in good standing for at least two years unless otherwise approved by the board.

~~((b))~~ (c) Has paid the application and permit fee.

~~((c) Has not committed unprofessional conduct as specified by the Uniform Disciplinary Act or chapter 18.35 RCW.)~~

(2) (~~The provisions of~~) RCW 18.35.030, 18.35.110, 18.35.120 apply to interim permit holders. (~~A person issued~~) An audiology interim permit holder may engage in the fitting and dispensing of hearing instruments.

(3) The interim permit (~~shall~~) must contain the name and title of the supervisor licensed under chapter 18.35 RCW.

(4) A licensed audiologist or speech-language pathologist under chapter 18.35 RCW may supervise up to four interim permit holders concurrently.

~~(Interim permit period:~~

~~(4) The interim permit period is divided into three equal segments. The supervisor must complete a minimum of:~~

~~(a) At least thirty-six supervisory activities spaced uniformly throughout the year.~~

~~(b) At least eighteen on-site observations (one hour equals one on-site observation). At least six on-site observations must be accrued during each segment (up to six hours may be accrued in one day).~~

~~(c) Eighteen other monitoring activities, at least six per segment.~~

~~(d) Upon the completion of each segment the supervisor must submit documentation of completion to the department on a form provided by the department.~~

~~(e) A review of all purchase agreements in the fitting and dispensing of hearing instruments prior to signing. All purchase agreements must be signed by the supervisor.~~

~~(5) The interim permit is valid for one year or for the duration of the postgraduate experience. The interim permit expires one year from the date it is issued. The board may extend the permit an additional six months.~~

~~Supervisor delegation:~~

~~(6) Portions of the supervisory activities including the supervision in hearing instrument fitting and dispensing may be obtained in another facility and may be under the supervision of another licensed speech language pathologist or audiologist as delegated by the supervisor of record.~~

~~(a) The audiologist supervisor of record may delegate the supervision of hearing instrument fitting and dispensing to a licensed hearing instrument fitter/dispenser who has been licensed in good standing for at least two years.~~

~~(b) Delegation of the responsibility of supervision must be approved by the department.~~

~~(7) The department may approve transfer of a permit holder to another eligible supervisor upon the written request of either the supervisor or the permit holder.~~

~~(8) The permit holder must immediately report the termination of the supervisor to the department in writing, by certified mail.~~

~~(9) The supervisor of a permit holder who desires to terminate the responsibility as supervisor must immediately notify the department in writing, by certified mail, of the termination. The supervisor is responsible for the permit holder until the notification of termination to the department is deposited in the United States mail.)~~

NEW SECTION

WAC 246-828-04503 Postgraduate professional work experience. (1) The interim permit period must consist of at least thirty-six weeks of full-time postgraduate professional work experience or its part-time equivalent.

(a) Postgraduate professional work experience of less than fifteen hours per week does not meet the requirement and may not be counted toward the postgraduate professional work experience. Experience of more than thirty hours per week may not be used to shorten the postgraduate professional work experience to less than thirty-six weeks.

(b) The supervisor must submit to the department, on a form provided by the department, documentation of supervision and progress during the postgraduate professional work experience, at the end of each three-month period.

(2) The supervisor must cosign all purchase agreements in the fitting and dispensing of hearing instruments.

(3) The interim permit expires one year from the date it is issued. The board may extend the interim permit an additional twenty-four months to accommodate part-time postgraduate professional work experience or upon request of the interim permit holder due to illness or extenuating circumstances.

NEW SECTION

WAC 246-828-04505 Supervisor delegation. (1) The supervisor may delegate portions of the supervisory activities

to another qualified supervisor of the same discipline in another facility. Before delegating supervision responsibility the supervisor must seek department approval.

(2) The department may approve transfer of an interim permit holder to another eligible supervisor upon the written request of either the supervisor or the interim permit holder.

(3) The interim permit holder must immediately report the termination of the supervisor to the department in writing. The interim permit holder may only resume practice after the supervisor is approved by the department.

(4) The supervisor of an interim permit holder who desires to terminate the responsibility as supervisor must immediately notify the department in writing of the termination. The supervisor is responsible for the interim permit holder until the notification of termination is received by the department.

AMENDATORY SECTION (Amending WSR 04-02-068, filed 1/7/04, effective 2/7/04)

WAC 246-828-075 ((Student supervisors—Scope and definitions:)) Supervisors of students. (1) Students enrolled in ((an accredited education or training)) a board approved program may perform the duties of a hearing instrument fitter/dispenser, audiologist or speech language pathologist in the course of their training ((if)) under ((the)) appropriate supervision ((of a Washington state licensed hearing instrument fitter/dispenser or audiologist)).

((1) Supervision means the licensee is physically present on the premises at all times.

(a) Supervision includes the personal and direct involvement of the supervisor. The supervisor must:

(i) ~~Directly observe diagnostic and therapeutic procedures; and~~

(ii) ~~Cosign all purchase agreements for the sale of hearing instruments.~~

~~(b) A licensed audiologist or speech language pathologist under chapter 18.35 RCW may not assume the responsibility for more than one permit holder.~~

~~(c) The supervisor is responsible for all acts of the permit holder in connection with audiology or speech language pathology services through the duration of the permit. The supervisor shall execute and submit to the department acknowledgment of responsibility for all acts of the permit holder in connection with audiology or speech language pathology services.~~

~~(2) An accredited education or training program means any course of study in the field of fitting and dispensing hearing instruments that is offered by a school or program recognized by the state of Washington.~~

~~(3) The student shall at all times wear an identification badge readily visible to the public that identifies him or her as a student.)~~ (a) Speech language pathology students must be supervised by a speech language pathologist licensed under chapter 18.35 RCW, in good standing for at least two years.

(b) Audiology students must be supervised by an audiologist licensed under chapter 18.35 RCW, in good standing for at least two years.

(c) Hearing instrument fitter and dispenser students must be supervised by either a hearing instrument fitter/dispenser

or a licensed audiologist licensed under chapter 18.35 RCW, in good standing for at least two years.

(2) Students may perform only those activities that are within the scope of the profession as defined by the training program in which they are enrolled.

(3) The student shall at all times wear an identification badge readily visible to the public that identifies him or her as a student.

(4) The licensee who is supervising hearing instrument fitting and dispensing students must be physically present on the premises at all times. The supervisor must cosign all purchase agreements for the sale of hearing instruments.

(5) The licensee who is supervising speech-language pathology or audiology students may include simultaneous observations with the student or the submission of written reports or summaries by the student for supervisor monitoring, review and approval. At least fifty percent of each student's time in each diagnostic evaluation, including screening and identification, must be observed directly by a supervisor. The observations may take place on site or by closed-circuit television.