

WSR 11-08-016
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2010-10—Filed March 30, 2011,
 2:14 p.m., effective June 27, 2011]

Effective Date of Rule: June 27, 2011.

Purpose: Chapter 67, Laws of 2010, provides for the separate licensing of crop adjusters and for the commissioner to adopt rules regarding the prelicensing education, examination, continuing education requirements, and renewal of the license. These rules set forth the educational and examination requirements for licensing and renewal of licenses of crop adjusters.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.005, and 48.17.150.

Other Authority: Chapter 67, Laws of 2010.

Adopted under notice filed as WSR 11-05-090 on February 16, 2011.

A final cost-benefit analysis is available by contacting Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7036, fax (360) 586-3109, e-mail jimt@oic.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 0, Repealed 0.

Date Adopted: March 30, 2011.

Mike Kreidler
 Insurance Commissioner

CROP ADJUSTERS

NEW SECTION

WAC 284-17-700 Definitions. As used in WAC 284-17-705 through 284-17-730, the terms below have the following meaning unless the context clearly requires otherwise:

"Certification program" means any crop adjuster educational and examination program meeting the federal Risk Management Agency requirements.

"Crop adjuster" has the meaning set forth in RCW 48.17.010 (1)(c).

"Risk Management Agency" or "RMA" means the Risk Management Agency of the United States Department of Agriculture.

NEW SECTION

WAC 284-17-705 Crop adjuster prelicensing education and examination requirements. (1) An applicant for a crop adjuster's license to adjust crop losses insured through a federal crop insurance program must complete all educational and examination requirements of a certification program. With the application, an applicant for a crop adjuster's license must submit to the commissioner true and accurate documentation of their certification program completion. A copy of the documentation demonstrates compliance with the prelicensing education and examination requirements necessary for a crop adjuster license. A crop adjuster licensed under this subsection may adjust crop losses that are and are not insured through a federal crop insurance program.

(2) An applicant for a crop adjuster's license to adjust crop losses that are not insured through a federal crop insurance program:

(a) Is not required to complete a prelicensing education course;

(b) Must pass the state's crop adjuster licensing exam; and

(c) Must not adjust crop insurance losses that are insured through a federal crop insurance program.

NEW SECTION

WAC 284-17-720 Crop adjuster license renewal requirements. (1) Every licensed crop adjuster adjusting crop insurance losses insured through a federal insurance program must:

(a) Renew their license on or before the expiration of the license; and

(b) On or before February 28th of each year, file with the commissioner a true and accurate copy of documents establishing their certification program completion. Failure to timely file a copy of the documentation with the commissioner is a sufficient basis for the commissioner to suspend, revoke, or refuse to renew a crop adjuster license.

(2) Every licensed crop adjuster adjusting crop losses not insured through a federal crop insurance program:

(a) Must renew their license on or before the expiration of the license; and

(b) Are not required to take continuing education.

(3) Crop adjusters who do not renew their license prior to the expiration date must pay the surcharge under RCW 48.17.170.

NEW SECTION

WAC 284-17-730 Crop adjusters who are salaried employees of an insurance company or of a managing general agent. (1) All authorized insurance companies and licensed managing general agents must annually, on or before February 28th of each year, file with the commissioner a list of all salaried employees who act on their behalf as crop adjusters adjusting losses insured through a federal crop insurance program and a true and accurate copy of the documentation establishing completion of the crop adjuster certification program.

(2) Each insurance company and its managing general agents must file with the commissioner any changes to the list within thirty days of a change. If the change includes the addition of a new crop adjuster to the list, the insurance company and managing general agent must also file a copy of the documentation establishing the crop adjuster's completion of the certification program.

NEW SECTION

WAC 284-17-735 Limited conversion to crop adjuster license. On or before September 30, 2011, an adjuster that is currently licensed by the commissioner as an independent or public adjuster may convert the license to a crop adjuster license to only adjust crop losses not insured through a federal program upon compliance with the following:

- (1) Send written notice to the commissioner requesting the conversion; and
- (2) Provide the commissioner with proof of a minimum of two years crop adjusting experience.

WSR 11-08-024

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed March 31, 2011, 2:28 p.m., effective May 1, 2011]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-853-640 and 246-854-230, these rules establish the duties, responsibilities and training requirements for osteopathic physicians performing or delegating, and for osteopathic physician assistants performing, nonsurgical medical cosmetic procedures. The rules protect the public from potential harm by creating minimum standards for the performance or delegation of these types of procedures.

Statutory Authority for Adoption: RCW 18.57.005, 18.57A.020.

Other Authority: RCW 18.130.050(4).

Adopted under notice filed as WSR 10-22-108 on November 2, 2010.

A final cost-benefit analysis is available by contacting Erin Obenland, P.O. Box 47852, Olympia, WA 98504, phone (360) 236-4945, fax (360) 236-2901, e-mail erin.obenland@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: January 21, 2011.

Blake T. Maresh
Executive Director

NEW SECTION

WAC 246-853-640 Nonsurgical medical cosmetic procedures. (1) The purpose of this rule is to set forth the duties and responsibilities of an osteopathic physician who delegates the injection of medications or substances for cosmetic purposes or the use of prescription devices for cosmetic purposes. These procedures can result in complications such as visual impairment, blindness, inflammation, burns, scarring, disfiguration, hypopigmentation and hyperpigmentation. The performance of these procedures is the practice of osteopathic medicine under RCW 18.57.001(4).

(2) This rule does not apply to:

- (a) Surgery;
- (b) The use of prescription lasers, noncoherent light, intense pulsed light, radiofrequency, or plasma as applied to the skin. This is covered in WAC 246-853-630 and 246-854-220;

(c) The practice of a profession by a licensed health care professional under methods or means within the scope of practice permitted by such license;

(d) The use of nonprescription devices; and

(e) Intravenous therapy.

(3) Definitions. These definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Nonsurgical medical cosmetic procedure" means a procedure or treatment that involves the injection of a medication or substance for cosmetic purposes, or the use of a prescription device for cosmetic purposes.

(b) "Osteopathic physician" means an individual licensed under chapter 18.57 RCW.

(c) "Prescription device" means a device that the federal Food and Drug Administration has designated as a prescription device, and can be sold only to persons with prescriptive authority in the state in which they reside.

OSTEOPATHIC PHYSICIAN RESPONSIBILITIES

(4) An osteopathic physician must be appropriately trained in a nonsurgical medical cosmetic procedure prior to performing the procedure or delegating the procedure. The osteopathic physician must keep a record of his or her training in the office and available for review upon request by a patient or a representative of the board.

(5) Prior to authorizing a nonsurgical medical cosmetic procedure, an osteopathic physician must:

- (a) Take a history;
- (b) Perform an appropriate physical examination;
- (c) Make an appropriate diagnosis;
- (d) Recommend appropriate treatment;
- (e) Obtain the patient's informed consent;
- (f) Provide instructions for emergency and follow-up care; and

(g) Prepare an appropriate medical record.

(6) Regardless of who performs the nonsurgical medical cosmetic procedure, the osteopathic physician is ultimately responsible for the safety of the patient.

(7) Regardless of who performs the nonsurgical medical cosmetic procedure, the osteopathic physician is responsible for ensuring that each treatment is documented in the patient's medical record.

(8) The osteopathic physician must ensure that there is a quality assurance program for the facility at which nonsurgical medical cosmetic procedures are performed regarding the selection and treatment of patients. An appropriate quality assurance program must include the following:

(a) A mechanism to identify complications and untoward effects of treatment and to determine their cause;

(b) A mechanism to review the adherence of supervised health care practitioners to written protocols;

(c) A mechanism to monitor the quality of treatments;

(d) A mechanism by which the findings of the quality assurance program are reviewed and incorporated into future protocols required by subsection (10) of this section and osteopathic physician supervising practices; and

(e) Ongoing training to maintain and improve the quality of treatment and performance of supervised health care practitioners.

(9) An osteopathic physician may not sell or give a prescription device or medication to an individual who does not possess prescriptive authority in the state in which the individual resides or practices.

(10) The osteopathic physician must ensure that all equipment used for procedures covered by this section is inspected, calibrated, and certified as safe according to the manufacturer's specifications.

PHYSICIAN DELEGATION

(11) An osteopathic physician who meets the above requirements may delegate a nonsurgical medical cosmetic procedure to a properly trained physician assistant, registered nurse or licensed practical nurse, provided all the following conditions are met:

(a) The treatment in no way involves surgery as that term is understood in the practice of medicine;

(b) The osteopathic physician delegates procedures that are within the delegate's lawful scope of practice;

(c) The delegate has appropriate training in, at a minimum:

(i) Techniques for each procedure;

(ii) Cutaneous medicine;

(iii) Indications and contraindications for each procedure;

(iv) Preprocedural and postprocedural care;

(v) Recognition and acute management of potential complications that may result from the procedure; and

(vi) Infectious disease control involved with each treatment.

(d) The osteopathic physician has a written office protocol for the delegate to follow in performing the nonsurgical medical cosmetic procedure. A written office protocol must include, at a minimum, the following:

(i) The identity of the osteopathic physician responsible for the delegation of the procedure;

(ii) Selection criteria to screen patients for the appropriateness of treatment;

(iii) A description of appropriate care and follow-up for common complications, serious injury, or emergencies; and

(iv) A statement of the activities, decision criteria, and plan the delegate shall follow when performing delegated procedures, including the method for documenting decisions made and a plan for communication or feedback to the authorizing osteopathic physician concerning specific decisions made.

(f) The osteopathic physician ensures that the delegate performs each procedure in accordance with the written office protocol;

(f) Each patient signs a consent form prior to treatment that lists foreseeable side effects and complications, and the identity and license of the delegate or delegates who will perform the procedure; and

(g) Each delegate performing a procedure covered by this section must be readily identified by a name tag or similar means so that the patient understands the identity and license of the treating delegate.

(12) If an osteopathic physician delegates the performance of a procedure that uses a medication or substance, whether or not approved by the federal Food and Drug Administration for the particular purpose for which it is used, the osteopathic physician must be on-site during the procedure.

(13) If the physician is unavailable to supervise a delegate as required by this section, the osteopathic physician must make arrangements for an alternate physician to provide the necessary supervision. The alternate supervisor must be familiar with the protocols in use at the site, will be accountable for adequately supervising the treatment pursuant to the protocols, and must have comparable training as the primary supervising osteopathic physician.

(14) An osteopathic physician may not permit a delegate to further delegate the performance of a nonsurgical medical cosmetic procedure to another individual.

NEW SECTION

WAC 246-854-230 Nonsurgical medical cosmetic procedures. (1) The purpose of this rule is to establish the duties and responsibilities of an osteopathic physician assistant who injects medication or substances for cosmetic purposes or uses prescription devices for cosmetic purposes. These procedures can result in complications such as visual impairment, blindness, inflammation, burns, scarring, disfigurement, hypopigmentation and hyperpigmentation. The performance of these procedures is the practice of medicine under RCW 18.57.001.

(2) This section does not apply to:

(a) Surgery;

(b) The use of prescription lasers, noncoherent light, intense pulsed light, radiofrequency, or plasma as applied to the skin; this is covered in WAC 246-853-630 and 246-854-220;

(c) The practice of a profession by a licensed health care professional under methods or means within the scope of practice permitted by such license;

(d) The use of nonprescription devices; and

(e) Intravenous therapy.

(3) Definitions. These definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Nonsurgical medical cosmetic procedure" means a procedure or treatment that involves the injection of a medication or substance for cosmetic purposes, or the use of a prescription device for cosmetic purposes.

(b) "Physician" means an individual licensed under chapter 18.57 RCW.

(c) "Physician assistant" means an individual licensed under chapter 18.57A RCW.

(d) "Prescription device" means a device that the federal Food and Drug Administration has designated as a prescription device, and can be sold only to persons with prescriptive authority in the state in which they reside.

PHYSICIAN ASSISTANT RESPONSIBILITIES

(4) An osteopathic physician assistant may perform a nonsurgical medical cosmetic procedure only after the board approves a practice plan permitting the osteopathic physician assistant to perform such procedures. An osteopathic physician assistant must ensure that the supervising or sponsoring osteopathic physician is in full compliance with WAC 246-853-640.

(5) An osteopathic physician assistant may not perform a nonsurgical medical cosmetic procedure unless his or her supervising or sponsoring osteopathic physician is fully and appropriately trained to perform that same procedure.

(6) Prior to performing a nonsurgical medical cosmetic procedure, an osteopathic physician assistant must have appropriate training in, at a minimum:

(a) Techniques for each procedure;

(b) Cutaneous medicine;

(c) Indications and contraindications for each procedure;

(d) Preprocedural and postprocedural care;

(e) Recognition and acute management of potential complications that may result from the procedure; and

(f) Infectious disease control involved with each treatment.

(7) The osteopathic physician assistant must keep a record of his or her training in the office and available for review upon request by a patient or a representative of the board.

(8) Prior to performing a nonsurgical medical cosmetic procedure, either the osteopathic physician assistant or the delegating osteopathic physician must:

(a) Take a history;

(b) Perform an appropriate physical examination;

(c) Make an appropriate diagnosis;

(d) Recommend appropriate treatment;

(e) Obtain the patient's informed consent including disclosing the credentials of the person who will perform the procedure;

(f) Provide instructions for emergency and follow-up care; and

(g) Prepare an appropriate medical record.

(9) The osteopathic physician assistant must ensure that there is a written office protocol for performing the nonsurgical medical cosmetic procedure. A written office protocol must include, at a minimum, the following:

(a) A statement of the activities, decision criteria, and plan the osteopathic physician assistant must follow when performing procedures under this rule;

(b) Selection criteria to screen patients for the appropriateness of treatment;

(c) A description of appropriate care and follow-up for common complications, serious injury, or emergencies; and

(d) A statement of the activities, decision criteria, and plan the osteopathic physician assistant must follow if performing a procedure delegated by an osteopathic physician pursuant to WAC 246-853-640, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician concerning specific decisions made.

(10) An osteopathic physician assistant may not delegate the performance of a nonsurgical medical cosmetic procedure to another individual.

(11) An osteopathic physician assistant may perform a nonsurgical medical cosmetic procedure that uses a medication or substance, whether or not approved by the federal Food and Drug Administration for the particular purpose for which it is used, so long as the osteopathic physician assistant's sponsoring or supervising osteopathic physician is on-site.

(12) An osteopathic physician assistant must ensure that each treatment is documented in the patient's medical record.

(13) An osteopathic physician assistant may not sell or give a prescription device to an individual who does not possess prescriptive authority in the state in which the individual resides or practices.

(14) An osteopathic physician assistant must ensure that all equipment used for procedures covered by this section is inspected, calibrated, and certified as safe according to the manufacturer's specifications.

(15) An osteopathic physician assistant must participate in a quality assurance program required of the supervising or sponsoring physician under WAC 246-853-640.

WSR 11-08-054

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed April 5, 2011, 11:04 a.m., effective July 1, 2011]

Effective Date of Rule: July 1, 2011.

Purpose: This order will extend suspension of partial renewal fees in an effort to maintain a balanced budget for the geologist licensing program. The current temporary suspension expires on July 1, 2011.

Citation of Existing Rules Affected by this Order: Amending WAC 308-15-150 Geologist fees.

Statutory Authority for Adoption: RCW 18.220.040.

Other Authority: RCW 43.24.086.

Adopted under notice filed as WSR 11-05-063 on February 11, 2011.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 5, 2011.

Walt Fahrner
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-12-039, filed 5/30/08, effective 7/1/08)

WAC 308-15-150 Fees. (1) **Suspension of fees.** Effective July 1, ((2008)) 2011, the listed fees shown in subsection (2) of this section are suspended and replaced with the following:

Renewal Fees

Annual renewal fee for geologist	\$(70.00) <u>40.00</u>
Annual renewal for each specialty	\$(70.00) <u>50.00</u>
Annual renewal for geologist, with late fee <i>(if paid ninety days or more after due date)</i>	\$(140.00) <u>80.00</u>
Annual renewal fee for each specialty, with late fee <i>(if paid ninety days or more after due date)</i>	\$(140.00) <u>100.00</u>

The fees set forth in this section shall revert back to the fee amounts shown in WAC 308-15-150 on July 1, ((2011)) 2014.

(2) **Fees.**

Type of Fee	Amount
Application fees - includes initial license	
Application fee for geologist (applying by examination)	\$100.00
Application fee for each specialty (applying by examination)	\$100.00
Application fee for geologist (applying by reciprocity)	\$200.00
Application fee for each specialty (applying by reciprocity)	\$150.00

Type of Fee	Amount
Examination fees	
Fees for the fundamentals of geology and practice of geology examinations are submitted directly to ASBOG	
Administration fee for reexamination	\$65.00
Specialty examination (hydrogeologist or engineering geologist exam)	\$300.00
Renewal fees	
Annual renewal fee for geologist	\$100.00
Annual renewal fee for each specialty	\$85.00
Annual renewal for geologist, with late fee <i>(if paid ninety days or more after due date)</i>	\$200.00
Annual renewal for each specialty, with late fee <i>(if paid ninety days or more after due date)</i>	\$170.00
Miscellaneous fees	
Duplicate license or wall certificate . . .	\$25.00
Certification of license records to other jurisdictions.	\$45.00
Proctor examination for another jurisdiction	\$100.00