

WSR 15-18-050
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed August 27, 2015, 9:39 a.m.]

Supplemental Notice to WSR 15-10-100.

Preproposal statement of inquiry was filed as WSR 15-01-181.

Title of Rule and Other Identifying Information: The department is amending and adding new sections to chapter 388-71 WAC, Home and community services and programs, specifically adult protective services.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 28, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 27, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by October 13, 2015, TTY (360) 664-6178, (360) 664-6092 or e-mail Kildaja@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is adding new sections to chapter 388-71 WAC to transfer and amend the rules for residential client protection program found in chapter 388-76 WAC (adult family home), chapter 388-78A WAC (assisted living), chapter 388-97 WAC (nursing home), chapter 388-101 WAC (supportive living programs), and chapter 388-111 WAC (residential habilitation centers), to the adult protective services program.

The department is editing the original amendments to chapter 388-71 WAC to incorporate comments received after the hearing on June 9, 2015. New edits are:

- WAC 388-71-0210: The proposed language stated that APS "may" notify the alleged perpetrator The discretionary "may" is changed to "will."
- WAC 388-71-01247: A reference to 40 C.F.R. 488-335 is struck as its inclusion was an error.
- WAC 388-71-01247: The language is amended to mitigate scope of authority concerns.

Reasons Supporting Proposal: Read the purpose statement above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.520.

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, Implementation, and Enforcement: Carol Sloan, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2345.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The preparation of a small business economic impact statement is not required, as no new costs will be imposed on small businesses or nonprofits as a result of this rule amendment.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(v), rules the content of which is explicitly and specifically dictated by statute.

August 24, 2015
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-0100 What are the statutory references for WAC 388-71-0100 through ~~((388-71-01280)) 388-71-01281~~? The statutory references for WAC 388-71-0100 through WAC ~~((388-71-01280)) 388-71-01281~~ are:

- (1) Chapter 74.34 RCW; and
- (2) ~~((Chapter 74.39A RCW; and~~
- ~~(3) Chapter 74.39 RCW))~~ 42 U.S.C. § 1396r; 42 C.F.R. § 488.335.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-0105 What definitions apply to adult protective services? In addition to the definitions found in chapter 74.34 RCW, the following definitions apply:

~~((ADSA))~~ ALTSA means DSHS aging and ~~((disability))~~ long-term support services administration.

Adult family home means a home or building licensed under chapter 70.128 RCW.

"ALJ" means an administrative law judge, an impartial decision-maker who is an attorney and presides at an administrative hearing. The office of administrative hearings (OAH), which is a state agency, employs the ALJs. ALJs are not DSHS employees or DSHS representatives.

"APS" means adult protective services.

"Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

"BOA" means the DSHS board of appeals. The board of appeals consists of lawyers who are members of the Washington State Bar Association. An ALJ's decision can be appealed to the board of appeals, allowing a level of review before an appeal to the court system may be considered.

"DSHS" means the department of social and health services.

~~**("Entity"** means any agency, corporation, partnership, association, limited liability company, sole proprietorship, for-profit or not-for-profit business that provides care and/or services to vulnerable adults under a license, certification or contract issued by DSHS or DSHS' contractor. An entity does not include a boarding home licensed under chapter 18.20 RCW, an adult family home licensed under chapter 70.128 RCW, or a nursing home licensed under chapter 18.51 RCW,~~

but does include such facilities if they are required to be licensed but are not currently licensed.)

"Enhanced service facility" means a home or building licensed under chapter 70.97 RCW.

"Facility" means a residence licensed as ~~(a boarding home under chapter 18.20 RCW, an adult family home under chapter 70.128 RCW, a nursing home under chapter 18.51 RCW, a soldier's home under chapter 72.36 RCW, a residential habilitation center under chapter 71A.20 RCW, or any other facility licensed by DSHS)~~ an assisted living facility under chapter 18.20 RCW, an adult family home under chapter 70.128 RCW, a nursing home under chapter 18.51 RCW, a soldier's home under chapter 72.36 RCW, a residential habilitation center under chapter 71A.20 RCW, an enhanced services facility under chapter 71.05 RCW, or any other facility or residential program licensed or certified by DSHS's aging and long-term support administration.

"Final finding" means ~~(the department's)~~ a substantiated initial finding of abandonment, abuse, personal exploitation, financial exploitation or neglect that

(1) has been ~~(is)~~ upheld through the administrative appeal ~~(process specified)~~ described in WAC 388-71-01205 through 388-71-01280, or

(2) is not timely appealed to the office of administrative hearings. ~~(The alleged perpetrator can appeal a)~~ A final finding may be appealed to Superior Court and the Court of Appeals under the Administrative Procedure Act, chapter 34.05 RCW.

~~("Initial finding" means a determination made by the department upon investigation of an allegation of abandonment, abuse, financial exploitation, neglect or self-neglect.~~

~~(1) If the department determines it is more likely than not the incident occurred, the department shall document the finding as "substantiated."~~

~~(2) If the department determines it is more likely than not the incident did not occur, the department shall document the finding as "unsubstantiated."~~

~~(3) If the department cannot make a determination about whether the incident occurred or did not occur on a more probable than not basis, the department shall document the finding as "inconclusive.")~~

"Intermediate care facility for individuals with intellectual disabilities (ICF/IID)" means a facility certified under 42 C.F.R. Part 483, Subpart 1.

"Legal representative" means a guardian appointed under chapter 11.88 RCW or an attorney-in-fact under chapter 11.94 RCW.

"Nursing Assistant" means a nursing assistant as defined under RCW 18.88A.020 or successor laws.

"Nursing facility (NF)" or "medicaid-certified nursing facility" means a nursing home licensed under chapter 18.51 RCW, or any portion of a hospital, veterans' home, or residential habilitation center, that is certified to provide nursing services to medicaid recipients under section 1919(a) of the federal Social Security Act. All beds in a nursing facility are certified to provide medicaid services, even though one or more of the beds may also be certified to provide medicare skilled nursing facility services.

"Nursing home" means any facility licensed to operate under chapter 18.51 RCW.

"Person ~~(or entity)~~ with a duty of care" includes, but is not limited to, the following:

(1) A guardian appointed under chapter 11.88 RCW; or

(2) A person named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW.

(3) A person ~~(or entity)~~ providing the basic necessities of life to a vulnerable adult ~~((adults))~~ where:

(a) The person ~~(or entity)~~ is employed by or on behalf of the vulnerable adult; or

(b) The person ~~(or entity)~~ voluntarily agrees to provide, or has been providing, the basic necessities of life to the vulnerable adult on a continuing basis.

"Personal aide" as found in RCW 74.39.007.

"Self-directed care" as found in RCW 74.39.007.

"Skilled nursing facility (SNF)" or "medicare-certified skilled nursing facility" means a nursing home, a portion of a nursing home, or a long-term care wing or unit of a hospital that has been certified to provide nursing services to medicare recipients under Section 1819(a) of the federal Social Security Act.

"Substantiated initial finding" means a determination made by the department upon investigation of an allegation of abandonment, abuse, personal exploitation, financial exploitation, neglect or self-neglect that it is more likely than not that the alleged abandonment, abuse, personal exploitation, financial exploitation, neglect or self-neglect occurred.

"Willful" means the nonaccidental action or inaction by an alleged perpetrator that he/she knew or reasonably should have known could cause harm, injury or a negative outcome.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-0110 What is the purpose of an adult protective services investigation? The purpose of an adult protective services investigation is to:

(1) Investigate allegations of abandonment, abuse, personal exploitation, financial exploitation, neglect, or self-neglect.

(2) Provide protective services with the consent of the vulnerable adult or his or her legal representative when the allegation is substantiated, or prior to substantiation when it appears abandonment, abuse, personal exploitation, financial exploitation, neglect or self-neglect may be occurring and protective services could assist in ending or preventing harm to the vulnerable adult.

(3) When an allegation is substantiated, APS may investigate whether other vulnerable adults may be at current risk of abuse, personal exploitation, neglect, abandonment or financial exploitation by the person ~~(or entity)~~.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-0115 When is an investigation conducted? The department ~~((determines when an investigation is conducted [required]. The following criteria must be met))~~ will conduct an investigation when:

(1) The reported circumstances fit the definition of abandonment, abuse, personal exploitation, financial exploitation, neglect, or self-neglect as defined in chapter 74.34 RCW; and

(2) The alleged victim is a vulnerable adult as defined in chapter 74.34 RCW.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01201 What state-only funded services may be offered to a vulnerable adult victim of abandonment, abuse, personal exploitation financial exploitation, neglect or self-neglect? (1) Subject to available funding, state-only funded in-home personal care/household services and state-only funded placement in a department licensed and contracted adult family home, (~~boarding home~~) assisted living facility or nursing facility may be offered without regard to the vulnerable adult's functional status or income/resources, if:

(a) The vulnerable adult is the subject of an open APS case involving an allegation of abandonment, abuse, personal exploitation, financial exploitation, neglect, and/or self-neglect;

(b) The services would help protect the vulnerable adult from harm;

(c) APS cannot verify alternative resources or options for payment for services available to the vulnerable adult at the time;

(d) Services are provided in the least restrictive and most cost effective setting available to appropriately meet the needs of the vulnerable adult;

(e) APS is actively pursuing other service alternatives and/or resolution of the issues that resulted in the need for protective services; and

(f) The state-only funded services are temporary and provided with the consent of the vulnerable adult or legal representative only until the situation has stabilized. State-only funded protective services are provided by DSHS on a discretionary basis and are not a benefit and not an entitlement. Termination of state-only funded temporary protective services is exempt from notification and appeal requirements.

(2) State-only funded services to an individual vulnerable adult shall be based on assessed need and limited to:

(a) Up to one hundred forty-three hours of in-home personal care/household services per month; and

(b) A cumulative maximum total of ninety days service in any twelve-month period of time, with nursing facility services not exceeding thirty days of the ninety-day total. An exception to rule cannot be used to grant an extension.

NEW SECTION

WAC 388-71-01202 What factors are considered in an investigation of an individual used by a nursing facility or skilled nursing facility to provide services to vulnerable adults? If, after review of the results of the investigation, the department determines that an individual used by a nursing facility or skilled nursing facility to provide services to vulnerable adults, has abandoned, abused, personally exploited, neglected, or financially exploited a vulnerable adult, or has misappropriated a vulnerable adult's property, the department will make a substantiated initial finding to that effect. However, a substantiated initial finding of neglect will not be made if the individual demonstrates that the

neglect was caused by factors beyond the control of the individual.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01205 When does APS notify the alleged perpetrator ~~((of the results)) of ((an APS investigation))~~ a substantiated initial finding? (1) APS will notify the alleged perpetrator in writing within ten working days of making a substantiated initial finding of abandonment, abuse, personal exploitation, financial exploitation or neglect of a vulnerable adult.

(2) The time frame for notification can be extended beyond ten working days to include the time needed to translate the notification letter or make provisions for the safety of the alleged victim.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01210 How may APS give the alleged perpetrator notice of the substantiated initial finding? ~~((1) APS shall notify the alleged perpetrator of a substantiated initial finding by sending a letter certified mail/return receipt requested and regular mail to the alleged perpetrator's last known place of residence. The duty of notification created by this section is subject to the ability of the department to ascertain the location of the alleged perpetrator. APS shall make a reasonable, good faith effort to determine the address of the last known place of residence of the alleged perpetrator; or~~

~~(2) APS shall have the written notice delivered or personally served upon the alleged perpetrator))~~ APS will notify the alleged perpetrator of the substantiated initial finding using one of the following methods:

(1) Personal service of the notice as provided in RCW 4.28.080; or

(2) Sending a copy of the notice to the alleged perpetrator by first-class mail and by certified mail/return receipt requested, at his or her last known mailing address, which includes a post office box.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01215 When is notice to the alleged perpetrator complete? Notice is complete when:

(1) Personal service is made;

(2) Mail is properly stamped, addressed and deposited in the United States mail;

(3) A parcel is delivered to a commercial delivery service with charges prepaid; or

(4) A parcel is delivered to a legal messenger service with charges prepaid.

Reviser's note: The section above was filed as an amendatory section; however, there were no amendments made. Pursuant to the requirements of RCW 34.08.040 it is published in the same form as filed by the agency.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01220 What proves that APS provided notice of the substantiated initial finding to the alleged perpetrator? APS may prove notice was provided to the alleged perpetrator by any of the following:

- (1) A sworn statement or declaration of personal service;
- (2) The certified mail receipt signed by the recipient;
- (3) An affidavit or certificate of mailing; or
- (4) A signed receipt from the person who accepted the commercial delivery service or legal messenger service (~~(package)~~) parcel.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01225 What information must not be in the APS finding notice to the alleged perpetrator? The identities of the alleged victim, reporter, and witnesses must not be included in the (~~(APS)~~) substantiated initial finding notice to the alleged perpetrator.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01230 Will APS notify anyone other than the alleged perpetrator of the substantiated initial finding of abandonment, personal exploitation, abuse, financial exploitation or neglect? (1) In a manner consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and reporter, APS may provide notification of a substantiated initial finding to:

- (a) Other divisions within the department;
 - (b) The agency or program identified under RCW 74.34.068 with which the alleged perpetrator is associated as an employee, volunteer or contractor;
 - (c) Law enforcement;
 - (d) Other investigative authority consistent with chapter 74.34 RCW; (~~(and)~~)
 - (e) The facility in which the incident occurred; and
 - (f) The appropriate licensing agency.
- (2) In the notification APS will identify the finding as (~~(an)~~) a substantiated initial finding.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01235 Can an alleged perpetrator challenge (~~(an APS)~~) a substantiated initial finding of abandonment, abuse, personal exploitation, financial exploitation or neglect? An alleged perpetrator of abandonment, abuse, personal exploitation, financial exploitation or neglect may request an administrative hearing to challenge a substantiated initial finding made by APS on or after the effective date of this rule.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01240 How does an alleged perpetrator request an administrative hearing to challenge (~~(an APS)~~) a substantiated initial finding of abandonment, abuse, personal exploitation, financial exploitation or neglect?

(1) To request an administrative hearing the alleged perpetrator must send, deliver, or fax a written request to the office of administrative hearings (OAH). OAH must receive the written request (~~(within thirty)~~) no later than 5:00 p.m. on the thirtieth calendar ((days of) day from the mailing date on the department's letter of notice ((is mailed or personally served upon the alleged perpetrator, whichever occurs first)) or no later than 5:00 p.m. on the thirtieth calendar day from the date the department's letter of notice was personally served upon the alleged perpetrator, whichever occurs first, as required by WAC 388-02-0035(2). If the alleged perpetrator requests a hearing by fax, the alleged perpetrator must also mail a copy of the request to OAH on the same day.

(2) The alleged perpetrator must complete and submit the form to request an administrative hearing provided by APS or submit a written request for a hearing that includes:

- (a) The full legal name, current address and phone number of the alleged perpetrator;
- (b) A brief explanation of why the alleged perpetrator disagrees with the substantiated initial finding;
- (c) A description of any assistance needed in the administrative appeal process by the alleged perpetrator, including a foreign or sign language interpreter or any accommodation for a disability;
- (d) The alleged perpetrator should keep a copy of the request.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01245 What laws and rules will control the administrative hearings held regarding substantiated (~~(APS)~~) initial findings? Chapters 34.05 and 74.34 RCW, chapter 388-02 WAC, and the provisions of this chapter govern any administrative hearing regarding a substantiated (~~(APS)~~) initial finding. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter shall prevail.

NEW SECTION

WAC 388-71-01247 What additional rules apply to administrative hearings held regarding substantiated initial findings made against a nursing assistant employed in a nursing facility or skilled nursing facility? Upon receipt of a written request for a hearing from a nursing assistant employed in a nursing facility or skilled nursing facility, the office of administrative hearings will schedule a hearing, taking into account the following requirements:

- (1) The hearing decision must be issued within one hundred twenty days of the date the office of administrative hearings receives a hearing request, except as provided in subsection (6);

(2) Neither the department nor the nursing assistant can waive the one hundred twenty day requirement;

(3) The hearing will be conducted at a reasonable time and at a place that is convenient for the nursing assistant;

(4) The hearing, and any subsequent appeals, will be governed by this chapter, chapter 34.05 RCW, and chapter 388-02 WAC, or its successor regulations;

(5) A continuance may be granted for good cause upon the request of any party, as long as the hearing decision can still be issued within one hundred twenty days of the date of the receipt of the appeal, except under the circumstances described in subsection (6);

(6) If the ALJ finds that extenuating circumstances exist that will make it impossible to render a decision within one hundred twenty days, the ALJ may extend the one hundred twenty-day requirement by a maximum of sixty days; and

(7) To comply with the time limits described in this section, the nursing assistant must be available for the hearing and other preliminary matters. If the hearing decision ~~((is)) cannot ~~((rendered))~~ be issued~~ within the time limits described in ~~((subsection (1), or if appropriate under subsection (6), the ALJ shall issue an order dismissing the appeal and the substantiated initial finding will become final))~~ this section due to the unavailability of the nursing assistant, then, after the time limits have expired, the nursing assistant's name will be placed on the registry pending the outcome of the hearing.

(8) If a substantiated initial finding made against a nursing assistant employed in a nursing facility or skilled nursing facility is upheld in an ALJ's initial decision, the nursing assistant's name will be placed on the registry.

Reviser's note: The unnecessary underscoring and strike through in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01250 How is confidential information protected in the appeal process? (1) All information and documents provided by the department to the alleged perpetrator shall be used by the alleged perpetrator only to challenge the findings in the administrative hearing.

(2) Confidential information such as the name and other personal identifying information of the ~~((reporter))~~ person making a report to APS and the vulnerable adult shall be redacted from documents and ~~((the parties shall use means))~~ in testimony to protect the identify of such persons, unless otherwise ordered by the ALJ consistent with chapter 74.34 RCW and other applicable state and federal laws.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01255 How does the administrative law judge make a decision regarding the substantiated ~~((APS))~~ initial finding? (1) ~~((The))~~ If the ALJ ~~((shall decide if))~~ determines that a preponderance of the evidence in the

hearing record supports ~~((a determination))~~ the substantiated initial finding that the alleged perpetrator ~~((committed an act of abandonment, abuse, financial exploitation or neglect of))~~ abandoned, abused, personally exploited, financially exploited or neglected a vulnerable adult, the ALJ shall uphold the substantiated initial finding.

(2) ~~((If the ALJ determines that a preponderance of the evidence in the hearing record supports the substantiated APS finding, the ALJ shall uphold the finding.~~

~~((3)))~~ If the ALJ determines that the substantiated ~~((APS))~~ initial finding is not supported by a preponderance of the evidence in the hearing record, the ALJ shall remand the matter to the department to modify the finding consistent with the initial decision of the ALJ.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01260 ~~((How))~~ When is the alleged perpetrator notified of the administrative law judge's decision? ~~((After the administrative hearing, the))~~ The ALJ will send a written initial decision to the alleged perpetrator and the department within ninety calendar days after the administrative hearing record is closed.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01265 What if the alleged perpetrator or the department disagrees with the decision? If the alleged perpetrator or the department disagrees with the ALJ's initial decision, either party may challenge ~~((this))~~ the initial decision by filing a ~~((petition))~~ request for review with the department's board of appeals ~~((consistent with the procedures contained))~~ in accordance with chapter 34.05 RCW and chapter 388-02 WAC. If the alleged perpetrator files a request for review, the department will not change the substantiated finding in its records until a final decision is issued on the alleged perpetrator's request for review.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01270 What happens if the administrative law judge rules against the department? If the department appeals the ALJ's decision, the department will not modify the substantiated initial finding in the department's records until a final ~~((hearing))~~ agency decision is issued. If the department does not appeal the ALJ's initial decision, the department will modify the substantiated initial finding in the department's records consistent with the ALJ's initial decision and document the ALJ's initial decision in the record.

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01275 When does the APS substantiated initial finding become a final finding? (1) A substantiated initial finding becomes a final finding when:

~~((1))~~ (a) The department gives the alleged perpetrator notice of the substantiated initial finding pursuant to WAC

388-71-01210 and the alleged perpetrator does not request an administrative hearing as set forth in WAC 388-71-01240; or ~~((2))~~ (b) The ALJ dismisses the alleged perpetrator's request for hearing following default or withdrawal by the alleged perpetrator, or issues an initial order upholding the substantiated initial finding and the alleged perpetrator fails to file a request for review of the ALJ's initial decision with the department's board of appeals consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC; or

~~((3) The board of appeals issues a final order upholding))~~ (c) A party requests review of the substantiated finding ~~((when a request for review to the department's board of appeals is made))~~ consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC, and the department's board of appeals issues a review decision upholding the substantiated finding.

(2) A final finding is permanent, except under the circumstances described in (3).

(3) A final finding may be removed from the department's registry under the following circumstances:

(a) The department determines the finding was made in error;

(b) The finding is rescinded following judicial review;

(c) The department is notified of a nursing assistant's death; or

(d) When a final finding is made against a nursing assistant, employed in a nursing facility or skilled nursing facility based upon a singular instance of neglect of a resident, the department may remove the finding of neglect from the department's registry in response to a petition. Any such removal shall be based upon a written petition by the nursing assistant at least one year after the finding of neglect has been finalized and in accordance with requirements of federal law, 42 U.S.C.1396r (g)(1)(D).

~~((4) The final finding will remain as substantiated in the department's records unless the final finding is reversed after judicial review.))~~

AMENDATORY SECTION (Amending WSR 04-19-136, filed 9/21/04, effective 10/22/04)

WAC 388-71-01280 Does the department disclose information about final findings of abuse, personal exploitation, abandonment, neglect and financial exploitation? The department will maintain a registry of final findings of abuse, personal exploitation, abandonment, neglect and financial exploitation and, upon request of any person, the department may disclose the identity of a person ~~((or entity))~~ with a final finding of abandonment, abuse, personal exploitation, financial exploitation or neglect.

NEW SECTION

WAC 388-71-01281 To whom does the department report a final substantiated finding against a nursing assistant employed in a nursing facility or skilled nursing facility? The department will report a final finding of abandonment, abuse, personal exploitation, neglect, financial exploitation of a resident within ten working days to the following:

(1) The nursing assistant employed in a nursing facility or skilled nursing facility where the abuse, personal exploitation, abandonment, neglect or financial exploitation occurred;

(2) The current administrator of the facility in which the incident occurred;

(3) The administrator of the facility that currently employs the nursing assistant, if known;

(4) The department's registry;

(5) The appropriate licensing authority; and

(6) Any other lists maintained by a state or federal agency as appropriate.

WSR 15-19-025

PROPOSED RULES

GAMBLING COMMISSION

[Filed September 8, 2015, 8:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-151.

Title of Rule and Other Identifying Information: Proposed amendatory section WAC 230-07-051 Accumulating excessive reserves.

Hearing Location(s): DoubleTree by Hilton Olympia, 415 Capitol Way North, Olympia, WA 98501, (360) 570-0555, on November 12 or 13, 2015, at 9:30 a.m. or 12:30 p.m.

NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: November 12 or 13, 2015.

Submit Written Comments to: Susan Newer, P.O. Box 42400, Olympia, WA 98504-2400, e-mail Susan.Newer@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2015.

Assistance for Persons with Disabilities: Contact Michelle Rancour by November 1, 2015, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As part of our regulatory reform process, staff is proposing two changes that will save nonprofit licensees money and time by no longer requiring them to set up an endowment or a restricted trust fund when they want to accumulate excessive reserves to use for future capital projects or start new programs (such as a new HVAC system or soccer field). With the rule change:

- Licensees could accumulate these funds with the approval of a majority of the organization's membership rather than setting up an endowment or restricted trust fund; and
- The threshold amount was increased from \$2 million to \$4 million. As part of our stakeholder outreach, a licensee suggested increasing the threshold.

Each year staff verifies that the charitable and nonprofit licensees who have combined annual gross gambling receipts in excess of \$3 million are not accumulating excessive reserves but spending the monies made from their gambling

activities on their programs to further their stated purpose. All other restrictions on accumulating excessive reserves remain in effect, such as making sure the funds are saved according to a plan approved by the organization's officers or board of directors. The plan must include the amount to be reserved, the purpose for which the funds are being reserved, and the estimated time the reserves will be used. Commission staff approves the plan, which would exclude these restricted funds from the excessive reserves calculation.

Statutory Authority for Adoption: RCW 9.46.070 (1), (10), (16) and 9.46.0209 (1)(b)(iii).

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Newer, Lacey, (360) 486-3466; Implementation: David Trujillo, Director, Lacey, (360) 486-3512; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensees.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

September 8, 2015
Susan Newer
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-03-062, filed 1/14/08, effective 2/14/08)

WAC 230-07-051 Accumulating excessive reserves.

A charitable or nonprofit organization must not accumulate excessive reserves. Organizations accumulating excessive reserves may be deemed as organized primarily for purposes of gambling. Reserves must be computed by using the financial data most recently filed with us. ~~((Funds transferred to an endowment or specifically restricted trust fund will not be treated))~~ We will not treat funds as excessive reserves if the following restrictions are met:

(1) ~~((The endowment or dedicated trust fund is either legally irrevocable or restricted in a manner that approval is required by a majority of the membership prior to use or transfer of the endowment or dedicated trust principal))~~ A majority of the organization's membership approves the accumulation of excessive reserves; and

(2) The funds are expressly dedicated for funding new programs, capital projects, or to endow service-providing activities; and

(3) The funds are saved according to a plan that includes the amount to be reserved, the purpose for which the funds are being reserved, and the estimated time the reserves will be used; and

(4) The organization's officers or board of director's approves the plan ~~((is approved by the organization's officers~~

~~or board of directors and documentation for the endowment or trust fund is submitted to us for review and approval))~~; and

(5) The organization submits the plan to us for review and approval; and

(6) The total amount of ~~((net gambling income that is transferred to endowment or trust funds))~~ excessive reserves may exceed ~~((two))~~ four million dollars only if the organization petitions the director to exceed this limitation and the director approves the petition. The director may disapprove with written comments or approve a modified level based on facts presented. The director's decision may be appealed to the commission. Appeal of this decision will be heard at a regular public meeting of the commission. The commission's decision shall be final. Petitions for relief must include:

(a) The reason for the request, including whether the increased reserves are for charitable or nonprofit purposes and planned timelines for use; and

(b) The total amount of reserves requested; and

(c) The impact on programs if the petition is denied; and

(d) Alternative sources of funding available.

WSR 15-19-026
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 8, 2015, 11:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-061.

Title of Rule and Other Identifying Information: WAC 388-400-0050 If I am not eligible for federal benefits through Washington Basic Food program because of my alien status, can I receive benefits through the state-funded food assistance program?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 28, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 27, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by October 13, 2015, TTY (360) 664-6178, (360) 664-6092 or e-mail Kildaja@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 74.08A.120 authorizes the food assistance program (FAP) for legal immigrants. Subsection (3) states "The benefit under the state food assistance program shall be established by the legislature in the biennial operating budget." The 2015-2017 biennial budget (ESSB 6052), which passed the legislature and was

signed by the governor, increased funding for FAP from seventy-five percent of the federal benefit level and set benefits at one hundred percent of the federal food benefit level beginning July 1, 2015.

The amendments were made via emergency rule making under WSR 15-14-115, filed on June 30, 2015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.08A.120.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and ESSB 6052.

Rule is necessary because of federal law, 7 C.F.R. §273.18.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Robert Thibodeau, 712 Pear Street S.E., Olympia, WA 98504, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendment only affects households served by DSHS who are issued benefits under the state-funded FAP.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

August 26, 2015
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-02-037, filed 12/23/13, effective 1/23/14)

WAC 388-400-0050 If I am not eligible for federal benefits through Washington Basic Food program because of my alien status, can I receive benefits through the state-funded food assistance program? (1) If you are not eligible for federally funded Basic Food benefits solely because you do not meet the alien status requirements under WAC 388-424-0020, you may be eligible for the state-funded food assistance program (FAP) if you meet both of the following requirements:

- (a) You are a Washington state resident; and
- (b) You meet the alien status requirements under WAC 388-424-0030.

(2) FAP follows the same eligibility rules as federally funded Basic Food except for rules related to alien status. A summary of the rules for Basic Food is found in WAC 388-400-0040.

(3) Benefits for FAP are set by the biennial state operating budget as described in RCW 74.08A.120(3). These benefits are calculated as described in subsections (4) and (5) of this section.

(4) If your assistance unit (AU) includes both people who are eligible for federally funded Basic Food benefits and people who are eligible for state-funded FAP benefits, we

determine the amount of your federal and state food benefits by applying the following process:

(a) We calculate your AU's monthly benefits under WAC 388-450-0162 **as if** all the eligible persons in your AU could receive federally funded Basic Food benefits; and

(b) We then calculate your AU's monthly benefits under WAC 388-450-0162 for only the people in your AU **who are** eligible for federally funded benefits.

If (a) is more than (b)	If (b) is more than (a)
Your AU receives: <ul style="list-style-type: none"> • Basic Food benefits in the amount calculated using step (b); and • FAP benefits equal to ((three fourths)) the difference between (a) and (b), rounded down to the next whole dollar. 	Your AU receives Basic Food benefits in the amount calculated using step (b).

(5) If your AU only includes persons eligible for FAP, we determine the amount of your state-funded FAP benefits by:

(a) Applying the calculation for Basic Food under WAC 388-450-0162 **as if** all the persons in your AU were eligible to receive Basic Food; and

(b) Issuing FAP benefits to your AU equal to ~~((three fourths))~~ the amount calculated in subsection (5)(a), rounded down to the next whole dollar.

WSR 15-19-030
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed September 9, 2015, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-158.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-478-0020 Payment standards for TANF, SFA, and RCA, 388-478-0035 What are the maximum earned income limits for TANF, SFA, PWA, and RCA?, and 388-436-0050 Determining financial need and benefit amount for CEAP.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 28, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 27, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by October 13, 2015, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-478-0020, 388-478-0035, and 388-436-0050 to implement a nine percent increase in the payment standards for temporary assistance for needy families (TANF), state family assistance (SFA), and refugee cash assistance (RCA), the financial need and benefit amount limits for the consolidated emergency assistance program (CEAP), and the nine percent increase in the maximum earned income limits for the TANF, SFA, RCA, and the pregnancy women assistance (PWA) programs.

These rules were amended via emergency adoption on July 1, 2015, as WSR 15-15-005.

Reasons Supporting Proposal: The Washington state 2015-17 biennial operating budget (ESSB 6052 [section] 207) provides funding to increase the TANF, SFA, RCA, and CEAP payment standards by nine percent. This increase will provide essential supports to needy families and their vulnerable children.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090, and 74.08A.230.

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, Implementation, and Enforcement: Leslie Kozak, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4589.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

August 26, 2015
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-16-029, filed 7/27/11, effective 8/27/11)

WAC 388-478-0020 Payment standards for TANF, SFA, and RCA. (1) The maximum monthly payment standards for temporary assistance for needy families (TANF), state family assistance (SFA), and refugee cash assistance (RCA) assistance units with obligations to pay shelter costs are:

Assistance Unit Size	Payment Standard	Assistance Unit Size	Payment Standard
1	\$(305) <u>332</u>	6	\$(736) <u>802</u>

Assistance Unit Size	Payment Standard	Assistance Unit Size	Payment Standard
2	((385)) <u>420</u>	7	((850)) <u>927</u>
3	((478)) <u>521</u>	8	((941)) <u>1,026</u>
4	((562)) <u>613</u>	9	((1,033)) <u>1,126</u>
5	((648)) <u>706</u>	10 or more	((1,123)) <u>1,224</u>

(2) The maximum monthly payment standards for TANF, SFA, and RCA assistance units with shelter provided at no cost are:

Assistance Unit Size	Payment Standard	Assistance Unit Size	Payment Standard
1	\$(185) <u>202</u>	6	\$(447) <u>487</u>
2	((235)) <u>256</u>	7	((517)) <u>564</u>
3	((290)) <u>316</u>	8	((572)) <u>623</u>
4	((342)) <u>373</u>	9	((628)) <u>685</u>
5	((394)) <u>429</u>	10 or more	((683)) <u>744</u>

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-478-0035 What are the maximum earned income limits for TANF, SFA, PWA and RCA? To be eligible for temporary assistance for needy families (TANF), state family assistance (SFA), refugee cash assistance (RCA), or a pregnant women assistance (PWA), a family's gross earned income must be below the following levels:

Number of Family Members	Maximum Earned Income Level	Number of Family Members	Maximum Monthly Earned Income Level
1	\$(610) <u>665</u>	6	\$(1,472) <u>1,604</u>
2	((770)) <u>839</u>	7	((1,700)) <u>1,853</u>
3	((955)) <u>1,042</u>	8	((1,882)) <u>2,051</u>
4	((1,124)) <u>1,225</u>	9	((2,066)) <u>2,252</u>
5	((1,295)) <u>1,413</u>	10 or more	((2,246)) <u>2,448</u>

AMENDATORY SECTION (Amending WSR 11-16-029, filed 7/27/11, effective 8/27/11)

WAC 388-436-0050 Determining financial need and benefit amount for CEAP. (1) To be eligible for CEAP assistance, the assistance unit's nonexcluded income, minus allowable deductions, must be less than ninety percent of the TANF payment standard for households with shelter costs. The net income limit for CEAP assistance units is:

Assistance Unit Members	Net Income Limit
1	\$((275)) <u>300</u>
2	((346)) <u>377</u>
3	((429)) <u>468</u>
4	((505)) <u>550</u>
5	((582)) <u>634</u>

Assistance Unit Members	Net Income Limit
6	((662)) <u>722</u>
7	((762)) <u>834</u>
8 or more	((847)) <u>923</u>

(2) The assistance unit's allowable amount of need is the lesser of:

(a) The TANF payment standard, based on assistance unit size, for households with shelter costs as specified under WAC 388-478-0020; or

(b) The assistance unit's actual emergent need, not to exceed maximum allowable amounts, for the following items:

Need Item: Maximum allowable amount by assistance unit size:

	1	2	3	4	5	6	7	8 or more
Food	\$((184)) <u>201</u>	\$((235)) <u>256</u>	\$((290)) <u>316</u>	\$((342)) <u>373</u>	\$((394)) <u>429</u>	\$((447)) <u>487</u>	\$((510)) <u>556</u>	\$((564)) <u>615</u>
Shelter	((225)) <u>245</u>	((284)) <u>310</u>	((354)) <u>386</u>	((417)) <u>455</u>	((479)) <u>522</u>	((543)) <u>592</u>	((629)) <u>686</u>	((695)) <u>758</u>
Clothing	((26)) <u>28</u>	((33)) <u>36</u>	((41)) <u>45</u>	((48)) <u>52</u>	((55)) <u>60</u>	((64)) <u>70</u>	((72)) <u>78</u>	((82)) <u>89</u>
Minor Medical Care	((156)) <u>170</u>	((199)) <u>217</u>	((247)) <u>269</u>	((290)) <u>316</u>	((334)) <u>364</u>	((377)) <u>411</u>	((439)) <u>479</u>	((485)) <u>529</u>
Utilities	((76)) <u>83</u>	((96)) <u>105</u>	((119)) <u>130</u>	((139)) <u>152</u>	((161)) <u>175</u>	((184)) <u>201</u>	((213)) <u>232</u>	((235)) <u>256</u>
Household maintenance	((55)) <u>60</u>	((71)) <u>77</u>	((88)) <u>96</u>	((103)) <u>112</u>	((119)) <u>130</u>	((135)) <u>147</u>	((156)) <u>170</u>	((172)) <u>187</u>
Job related transportation	((305)) <u>332</u>	((385)) <u>420</u>	((478)) <u>521</u>	((562)) <u>613</u>	((648)) <u>706</u>	((736)) <u>802</u>	((850)) <u>927</u>	((941)) <u>1,026</u>
Child related transportation	((305)) <u>332</u>	((385)) <u>420</u>	((478)) <u>521</u>	((562)) <u>613</u>	((648)) <u>706</u>	((736)) <u>802</u>	((850)) <u>927</u>	((941)) <u>1,026</u>

(3) The assistance unit's CEAP payment is determined by computing the difference between the allowable amount of need, as determined under subsection (2) of this section, and the total of:

(a) The assistance unit's net income, as determined under subsection (1) of this section;

(b) Cash on hand, if not already counted as income; and

(c) The value of other nonexcluded resources available to the assistance unit.

(4) The assistance unit is not eligible for CEAP if the amount of income and resources, as determined in subsection (3) of this section, is equal to or exceeds its allowable amount of need.

WSR 15-19-031
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed September 9, 2015, 10:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-093.

Title of Rule and Other Identifying Information: WAC 314-02-100 What is a grocery store?, 314-02-104 Central warehousing, 314-02-109 What are the quarterly reporting and payment requirements for a spirits retail licensee?, 314-05-025 Application process for a special occasion license, 314-05-035 Branded promotional items, 314-12-140 Prohibited practices—Contracts—Gifts—Rebates, 314-20-015 Licensed brewers—Retail sales of beer on brewery premises—Beer served without change on premises—Spirits, beer, and wine restaurant operation, 314-28-010 Records, 314-28-095 Farmer's market spirits sales, 314-28-100 Con-

sumer orders, internet sales, and delivery for distillery and craft distillery licensees, 314-38-060 Special permit for technical or community colleges, regional university, or state university, as authorized by RCW 66.20.010(12) shall be called a class 15 permit, 314-38-080 Class 18 special winery permit, and 314-38-090 Class 19 special distillery permit.

Hearing Location(s): Washington State Liquor Control [and Cannabis] Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on November 4, 2015, at 10:00 a.m.

Date of Intended Adoption: November 18, 2015.

Submit Written Comments to: Karen McCall, P.O. Box 43098, Olympia, WA 98504, e-mail rules@lcb.wa.gov, fax (360) 664-9689, by November 4, 2015.

Assistance for Persons with Disabilities: Contact Karen McCall by November 4, 2015, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules are to implement 2015 legislation regarding liquor licenses.

Reasons Supporting Proposal: Clarification is needed for liquor licensees on 2015 legislation.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.140, 66.24.145, 66.24.244, 66.24.360, 66.24.630, 66.28.310, 66.20.010.

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

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Becky Smith, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Chief Enforcement, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not required.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis was not required.

September 9, 2015

Jane Rushford
Chairman

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

WAC 314-02-100 What is a grocery store license? (1) Per RCW 66.24.360, a grocery store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred fifty dollars.

(3) In order to obtain and maintain a grocery store license, the premises must be stocked with an inventory of at least three thousand dollars wholesale value of food for human consumption, not including soft drinks, beer, or wine. This minimum inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained at the premises at all times the business is licensed, with the exception of:

(i) The beginning and closing inventory for seasonal operations; or

(ii) When the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) A grocery store licensee may sell beer in kegs or other containers holding at least four gallons and less than five and one-half gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(5) A grocery store licensee may sell beer and wine over the internet. See WAC 314-03-020 regarding internet sales and delivery.

(6) A grocery store applicant or licensee may apply for an international exporter endorsement for five hundred dollars a year, which allows the sale of beer and wine for export to locations outside the United States.

(7) A grocery store applicant or licensee may apply for a beer and wine tasting endorsement which allows beer and wine tastings on the grocery store premises. The annual fee for this endorsement is two hundred dollars.

(8) A grocery store licensee may apply for an endorsement to sell beer and cider growers.

(a) The licensee must have sales from beer and wine exceeding fifty percent of their total revenues or maintain an alcohol inventory of not less than fifteen thousand dollars.

(b) Beer and cider must be sold in sanitary containers provided by the purchaser, licensee or the manufacturer and filled by the employee at the time of purchase.

(c) The taps must be located behind a counter where only employees have access or the taps must have locks preventing use unless unlocked and operated by an employee.

(d) Only employees of the licensee are permitted to operate the taps.

(e) All employees operating a tap must hold a class 12 alcohol server permit.

(f) The cost for the endorsement is one hundred twenty dollars.

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

WAC 314-02-104 Central warehousing. (1) Each retail liquor licensee having a warehouse facility where they intend to receive wine and/or spirits must register their warehouse facility with the board and include the following information:

(a) Documentation that shows the licensee has a right to the warehouse property;

(b) If a warehouse facility is to be shared by more than one licensee, each licensee must demonstrate to the board that a recordkeeping system is utilized that will account for all wine and/or spirits entering and leaving the warehouse for each license holder. The system must also account for product loss;

(c) Licensees in a shared warehouse may consolidate their commitment for the amount of product they plan to order, but their orders must be placed separately and paid for by each licensee; and

(d) Alternatively, if the warehouse does not have a recordkeeping system that provides the required information, wine and/or spirits for each licensee in a shared warehouse must be separated by a physical barrier. Where physical separation is utilized, a sketch of the interior of the warehouse facility must be submitted indicating the designated area the licensee will be storing product. (Example: If ABC Grocery and My Grocery, each licensed to a different ownership entity, both lease space in a warehouse facility, the wine and/or spirits must be in separate areas separated by a physical barrier.)

(2) Spirits retail licensees may have spirits product delivered to their individual licensed premises, at any other spirits retail licensed premises, or at a warehouse facility registered with the board.

(a) Spirits retail licensees may negotiate a volume discount price with a spirits distributor to order spirits product as a group and have all product delivered to one spirits retail licensed premises.

(b) Spirits distributors may accept a group order for spirits and deliver to one spirits retail licensed premises and collect individual checks for payment from each spirits retail licensee that participated in the group order.

(c) Each spirits retail licensee will pick up their spirits product from the spirits retail licensed premises where the spirits product was delivered.

(3) Upon the request of the board, the licensee must provide any of the required records for review. Retail liquor licensees must keep the following records for three years:

(a) Purchase invoices and supporting documents for wine and/or spirits purchased;

(b) Invoices showing incoming and outgoing wine and/or spirits (product transfers);

(c) Documentation of the recordkeeping system in a shared warehouse as referenced in subsection (1)(b) of this section; and

(d) A copy of records for liquor stored in the shared warehouse.

~~((3))~~ (4) Each licensee must allow the board access to the warehouse for audit and review of records.

~~((4))~~ (5) If the wine and/or spirits for each licensee in a shared warehouse is not kept separate, and a violation is found, each licensee that has registered the warehouse with the board may be held accountable for the violation.

AMENDATORY SECTION (Amending WSR 14-12-101, filed 6/4/14, effective 7/5/14)

WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license?

(1) A **spirits retailer** must submit quarterly reports and payments to the board.

The required reports must be:

(a) On a form furnished by the board;

(b) Filed every quarter, including quarters with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twenty-fifth day following the tax quarter (e.g., Quarter 1 (Jan., Feb., Mar.) report is due April 25th). When the twenty-fifth day of the month falls on a Saturday, Sunday,

or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) **What if a spirits retailer licensee fails to report or pay, or reports or pays late?** Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board as required in subsection (1) of this section will be sufficient grounds for the board to suspend or revoke the liquor license.

A penalty of ~~((two))~~ one percent per month will be assessed on any payments postmarked after the twenty-fifth day quarterly report is due. When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor control board, or designee, will be used to determine if penalties are to be assessed.

AMENDATORY SECTION (Amending WSR 11-23-046, filed 11/9/11, effective 12/10/11)

WAC 314-05-025 Application process for a special occasion license. (1) Special occasion applications normally take forty-five days to process. The liquor ~~((control))~~ and cannabis board may not be able to process your application in time for your event if you do not apply at least forty-five days before the event.

(2) Per RCW 66.24.010(8), when the liquor and cannabis board receives a special occasion application, it must send a notice to the local authority. The local authority has twenty days to respond with any input, and they may request an extension for good cause.

(3) The liquor ~~((control))~~ and cannabis board may run a criminal history check on the organization's officers and/or managers.

(4) The liquor ~~((control))~~ and cannabis board requires documentation to verify the organization is a ~~((bona fide))~~ bona fide nonprofit, who the true party(ies) of interest are in the organization, and that the organization meets the guidelines outlined in WAC 314-05-020 and 314-05-025.

(5) See chapter 314-07 WAC regarding possible reasons for denial of a special occasion license. Denials are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

WAC 314-05-035 Branded promotional items. (1) Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association, exempt from taxation under 26 U.S.C. Sec. 501 (c)(3) of the Internal Revenue Code as it existed on the effective date of this section for use consistent with the purpose entitling it to such exemptions. Branded promotional items may not be targeted to or be especially appealing to youth.

(2) If the nonprofit charitable corporation or association applies for and receives a special occasion license, they are

considered a liquor retailer and are required to comply with RCW 66.28.305. Branded promotional items:

(a) Must be used exclusively by the retailer in a manner consistent with its license;

(b) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

(c) May be provided by industry members only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and

(d) May not be targeted to or be especially appealing to youth.

(3) An industry member is not obligated to provide such branded promotional items as a condition for selling alcohol to the retailer.

(4) Any industry member or retailer or any other person asserting the provision of branded promotional items as allowed in this section has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria of this section, may file a complaint with the liquor and cannabis board. Upon receipt of a complaint, the liquor and cannabis board may conduct such investigation as it deems appropriate.

(a) The liquor and cannabis board may issue an administrative violation notice to the industry member, the retailer, or both.

(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-12-140 Prohibited practices—Contracts—Gifts—Rebates, etc. (1) No industry member or retailer shall enter into any agreement which causes undue influence over another retailer or industry member. This regulation shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of liquor which are made in accordance with the usual and common business practice and which are otherwise in compliance with the regulations.

(2) No industry member shall advance and no retailer, any employee thereof, or applicant for a retail liquor license shall receive money or money's worth under any written or unwritten agreement or any other business practice or arrangement such as:

(a) Gifts;

(b) Discounts;

(c) Loans of money;

(d) Premiums;

(e) Rebates;

(f) Free liquor of any kind; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this regulation.

(3) Pursuant to RCW (~~(66.28.010)~~) 66.28.310 and 66.44.318 an industry member or licensed agent may perform the following services for a retailer:

(a) Build, rotate, and restock displays, utilizing filled cases, filled bottles or filled cans of its own brands only, from stock or inventory owned by the retailer.

(b) Rotate, rearrange or replenish bottles or cans of its own brands on shelves or in the refrigerators but is prohibited from rearranging or moving displays of its products in such a manner as to cover up, hide or reduce the space of display of the products of any other industry member.

(c) Industry members or any employees thereof may move or handle in any manner any products of any other manufacturer, importer or distributor on the premises of any retail licensee when a two-day notice is given to other interested industry members or their agents and such activity occurs during normal business hours or upon hours that are mutually agreed.

(d) Provide price cards and may also price goods of its own brands in accordance with the usual and common business practice and which are otherwise in compliance with the regulations.

(e) Provide point of sale advertising material and brand signs.

(f) Provide sales analysis of beer and wine products based on statistical sales data voluntarily provided by the retailer involved for the purpose of proposing a schematic display for beer and wine products. Any statistical sales data provided by retailers for this purpose shall be at no charge.

(g) Such services may be rendered only upon the specific approval of the retail licensee. Displays and advertising material installed or supplied for use on a retailer's premises must be in conformity with the board's advertising rules as set forth in chapter 314-52 WAC.

(h) Licensees holding nonretail class liquor licenses are permitted to allow their employees between the ages of eighteen and twenty-one to stock, merchandise, and handle liquor on or about the:

(i) Nonretail premises if there is an adult twenty-one years of age or older on duty supervising such activities on the premises; and

(ii) Retail licensee's premises, except between the hours of 11:00 p.m. and 4:00 a.m., as long as there is an adult twenty-one years of age or older, employed by the retail licensee, and present at the retail licensee's premises during the activities.

Any act or omission of the nonretail class liquor licensee's employee occurring at or about the retail licensee's premises, which violates any provision of this title, is the sole responsibility of the nonretail class liquor licensee.

(4) No industry member or employee thereof shall, directly or indirectly, give, furnish, rent or lend to, or receive from, any retailer, any equipment, fixtures, supplies or property of any kind, nor shall any retail licensee, directly or indirectly, receive, lease or borrow from, or give or offer to, any industry member any equipment, fixtures, supplies or property of any kind. Sales authorized in this regulation shall be made on a cash on delivery basis only.

(5) No industry member or employee thereof shall sell to any retail licensee or solicit from any such licensee any order for any liquor tied in with, or contingent upon, the retailer's purchase of some other beverage, alcoholic or otherwise, or any other merchandise, property or service.

(6) In selling equipment, fixtures, supplies or commodities other than liquor, no industry member shall grant to any retailer, nor shall such retailer accept, more favorable prices than those extended to nonlicensed retailers. The price thereof shall be not less than the industry member's cost of acquisition. In no event shall credit be extended to any retailer.

(7) Any industry member who sells what is commonly referred to as heavy equipment and fixtures, such as counters, back bars, stools, chairs, tables, sinks, refrigerators or cooling boxes and similar articles, shall immediately after making any such sales have on file and available for inspection, records including a copy of the invoice covering each such sale, which invoice shall contain the following information:

(a) A complete description of the articles sold;

(b) The purchase price of each unit sold together with the total amount of the sale;

(c) Transportation costs and services rendered in connection with the installation of such articles; and

(d) The date of such sale and affirm that full cash payment for such articles was received from the retailer as provided in subsection (4) of this section.

(8) If the board finds in any instance that any licensee has violated this regulation, then all licenses involved shall be held equally responsible for such violation.

Note: WAC 314-12-140 is not intended to be a relaxation in any respect of section 90 of the Liquor Act (RCW 66.28.010). As a word of caution to persons desiring to avail themselves of the opportunity to sell to retail licensees fixtures, equipment and supplies subject to the conditions and restrictions provided in section 90 of the act and the foregoing regulation, notice is hereby given that, if at any time such privilege is abused or experience proves that as a matter of policy it should be further curtailed or eliminated completely, the board will be free to impose added restrictions or to limit all manufacturers and distributors solely to the sale of liquor when dealing with retail licensees. WAC 314-12-140 shall not be considered as granting any vested right to any person, and persons who engage in the business of selling to retail licensees property or merchandise of any nature voluntarily assume the risk of being divested of that privilege and they will undertake such business subject to this understanding. The board also cautions that certain trade practices are prohibited by rulings issued under the Federal Alcohol Administration Act by the United States Bureau of Alcohol, Tobacco and Firearms, and WAC 314-12-140 is not intended to conflict with such rulings or other requirements of federal law or regulations.

AMENDATORY SECTION (Amending WSR 00-17-065, filed 8/9/00, effective 9/9/00)

WAC 314-20-015 Licensed brewers—Retail sales of beer on brewery premises—Beer served without charge on premises—Spirit, beer and wine restaurant operation.

(1) A licensed brewer (~~(holding a proper retail license, pursuant to chapter 66.24 RCW,)~~) may sell:

(a) Beer of its own production at retail on the brewery premises(~~(-)~~);

(b) Beer produced by another microbrewery or a domestic brewery for on- and off-premises consumption from its premises as long as the other breweries brands do not exceed twenty-five percent of the microbrewery's on-tap offering of

its own brands. Beer not of its own production must be purchased through normal distribution channels; and

(c) Cider produced by a domestic winery. Cider must be purchased through normal distribution channels.

(2) In selling beer and/or cider at retail, as provided in subsection (1) of this (~~(regulation)~~) section, a brewer shall conduct such operation in conformity with the statutes and regulations applicable to holders of such beer and/or wine retailers' licenses. The brewer shall maintain records of such retail operation separate from other brewery records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, beer of a licensed brewer's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the licensed brewer.

(4) A licensed brewer or a lessee of a licensed brewer operating a spirit, beer and wine restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such spirit, beer and wine restaurant licenses.

(5) A brewer may serve its own beer and beer not of its own production without charge on the brewery premises, as authorized by RCW 66.28.040.

(6) No retail license or fee is required for the holder of a brewer's license to serve beer without charge on the brewery premises as set forth in subsection (5) of this (~~(regulation)~~) section. Before exercising this privilege, however, such brewer shall obtain approval of the proposed service area and facilities from the board. Such brewer shall maintain a separate record of all beer so served.

(7) A brewery is required to obtain the appropriate retail license to sell beer, wine, or spirits on the brewery premises that is not of its own production except as set forth in subsection (1) of this section pursuant to RCW 66.24.244.

AMENDATORY SECTION (Amending WSR 12-12-065, filed 6/5/12, effective 7/6/12)

WAC 314-28-010 Records. (1) All distilleries licensed under RCW 66.24.140 and 66.24.145, including craft, fruit, and laboratory distillers must:

(a) Keep records regarding any spirits, whether produced or purchased, for three years after each sale. A distiller is required to report on forms approved by the liquor and cannabis board;

(b) In the case of spirits exported or sold, preserve all bills of lading and other evidence of shipment;

(c) Submit duplicate copies of transcripts, notices, or other data that is required by the federal government to the liquor and cannabis board if requested, within thirty days of the notice of such request. A distiller shall also furnish copies of the bills of lading, covering all shipments of the products of the licensee, to the board within thirty days of notice of such request;

(d) Preserve all sales records to spirits retail licensees, sales to spirits distributors, and exports from the state; and

(e) Submit copies of its monthly records to the liquor and cannabis board upon request.

(2) In addition to the above, a craft distiller must:

- (a) Preserve all sales records of retail sales to consumers; and
- (b) Submit its monthly records to the liquor and cannabis board upon request.

NEW SECTION

WAC 314-28-095 Farmer's market spirits sales. To conduct bottled spirits sales at a farmer's market, the following criteria must be met:

- (1) The farmer's market must be authorized to allow distilleries and craft distilleries to sell bottled spirits at retail.
- (2) The farmer's market endorsement does not allow sampling of spirits.
- (3) A distillery or craft distillery selling bottled spirits at a farmer's market must have an endorsement from the liquor and cannabis board to sell bottled spirits of its own production at a farmer's market (see RCW 66.24.145).
- (4) The distillery or craft distillery is required to send a list of the dates, times, and locations where bottled spirits may be offered for sale to the liquor and cannabis board at the beginning of each month.
- (5) The farmer's market is required to provide a sketch to the licensing division of the area where spirits bottle sales will be conducted.

NEW SECTION

WAC 314-28-100 Consumer orders, internet sales, and delivery for distillery and craft distillery licensees. A distillery or craft distillery licensee may accept orders for spirits from, and deliver spirits to, customers.

- (1) **Resale.** Spirits shall not be for resale.
- (2) **Stock location.** Spirits must come directly from a licensed distillery or craft distillery possession.
- (3) **How to place an order.** Spirits may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods.
- (4) **Sales and payment.**
 - (a) Only a spirits distillery or craft distillery licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a spirits distillery or craft distillery licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customer business on behalf of a spirits distillery or craft distillery licensee.
 - (b) All orders and payments shall be fully processed before spirits transfers ownership or, in the case of delivery, leaves a licensed distillery's or craft distillery's possession.
 - (c) **Payment method.** Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.
 - (d) **Internet.** To sell spirits via the internet, a new spirits distillery or craft distillery license applicant must request internet sales privileges in his or her application. An existing spirits distillery or craft distillery licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple stores may notify the board in a single

letter on behalf of affiliated spirits distillery or craft distillery licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) **Delivery location.** Delivery shall be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, or other similar lodging that temporarily serves as a residence.

(6) **Hours of delivery.** Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) **Age requirement.**

(a) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(b) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(c) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor shall be returned.

(8) **Intoxication.** Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9) **Containers and packaging.**

(a) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

- (i) The package contains liquor;
- (ii) The recipient must be twenty-one years of age or older; and
- (iii) Delivery to intoxicated persons is prohibited.

(10) **Required information.**

(a) Records and files shall be retained at the licensed premises. Each delivery sales record shall include the following:

- (i) Name of the purchaser;
- (ii) Name of the person who accepts delivery;
- (iii) Street addresses of the purchaser and the delivery location; and
- (iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) **Web site requirements.** When selling over the internet, all web site pages associated with the sale of liquor must display the spirits distillery or craft distillery licensee's registered trade name.

(12) **Accountability.** A spirits distillery or craft distillery licensee shall be accountable for all deliveries of liquor made on its behalf.

(13) **Violations.** The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

AMENDATORY SECTION (Amending WSR 14-03-078, filed 1/15/14, effective 2/15/14)

WAC 314-38-060 Special permit for technical or community colleges, regional university, or state university as authorized by RCW 66.20.010(12) shall be called a class 15 permit. (1) The class 15 permit allows tasting of alcohol by persons between eighteen and twenty years old. The requirements for a class 15 permit are as follows:

(a) The permit applicant is a technical or community college, regional university, or state university;

(b) The permit allows tasting, not consuming of alcohol as part of the class curriculum with approval of the educational provider;

(c) The student must be enrolled in a required or elective class at the college premises as part of a culinary, sommelier, wine business, enology, viticulture, beer technology, wine technology, or spirituous technology-related degree program;

(d) The alcohol served to any person in the program under twenty-one years of age is tasted but not consumed for the purpose of educational training as part of the class curriculum with the approval of the educational provider;

(e) Faculty or staff of the educational provider must be at least twenty-one years of age, supervise the service and tasting, and hold a class 12 or class 13 alcohol server permit; and

(f) Students may not purchase the alcoholic beverages.

(2) There is no annual fee for this permit.

NEW SECTION

WAC 314-38-080 Class 18 special winery permit. (1) The special winery permit is for domestic wineries.

(2) A special winery permit allows a manufacturer of wine to have a private event not open to the general public at a specific place and date for the purpose of tasting wine and selling wine of its own production for off-premises consumption.

(3) The activities at the event are limited to the activities allowed on the winery premises.

(4) The winery must obtain the special permit by submitting an application for a class 18 special winery permit to the board with a ten dollar permit fee.

(a) The application must be submitted to the board at least ten days prior to the event.

(b) The special permit must be posted at the event.

(5) The winery is limited to twelve events per calendar year.

NEW SECTION

WAC 314-38-090 Class 19 special distillery permit. (1) A special distillery/craft distillery permit is for Washington distillers only.

(2) A special distillery/craft distillery permit allows a manufacturer of spirits to have a private event not open to the general public at a specific place and date for the purpose of tasting spirits and selling spirits of its own production for off-premises consumption.

(3) The activities at the event are limited to the activities allowed on the winery premises.

(4) The distillery or craft distillery must obtain the special permit by submitting an application for a class 19 special distillery/craft distillery permit to the board with a ten dollar permit fee.

(a) The application must be submitted to the board at least ten days prior to the event.

(b) The special permit must be posted at the event.

(5) The licensee is limited to twelve events per calendar year.

WSR 15-19-034

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed September 9, 2015, 3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-113.

Title of Rule and Other Identifying Information: The department proposes to create chapter 388-834 WAC, Preadmission screening and resident review (PASRR) for persons with an intellectual disability or related condition.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 28, 2015.

Submit Written Comments to: DSHS rules coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 27, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by October 13, 2015, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to create these new rules as chapter 388-834 WAC in order to define the state's PASRR program in relation to 42 C.F.R. 42.483.100 through 138.

Reasons Supporting Proposal: The PASRR program ensures that individuals with intellectual disabilities or related conditions receive appropriate specialized services upon admission.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.140.

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, Implementation, and Enforcement: Terry Hehemann, Developmental Disabilities Administration, P.O. Box 45310, Olympia 98504-5310, (360) 725-3456.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules do not impact small businesses or nonprofits. They only impact DSHS clients.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules do not meet the definition of a "significant legislative rule" under RCW 34.05.328 (5)(c)(iii) because they do not impose penalties or sanctions, affect a license or permit, or create or amend a policy or regulatory program.

September 8, 2015
Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-834-0001 What is the purpose of this chapter? This chapter explains the duties of the developmental disabilities administration (DDA) and the rights of individuals regarding "preadmission screening and resident review" (PASRR). PASRR is a process required by federal law to ensure that individuals with serious mental illness or intellectual disability are not inappropriately admitted to medicaid-certified nursing facilities (NF or nursing facility), and to ensure that when such individuals are appropriately admitted they receive the specialized services they require.

NEW SECTION

WAC 388-834-0005 Who is affected by the rules in this chapter? The rules in this chapter affect individuals who are:

- (1) Being referred to a medicaid-certified nursing facility who have, or may have, an intellectual disability or related condition as defined in this chapter; and
- (2) Individuals who have been determined to have an intellectual disability or related condition and who are residing in a medicaid-certified nursing facility.

NEW SECTION

WAC 388-834-0010 "Appropriate placement" is the placement of an individual with mental illness and/or intellectual disability or related condition in a NF when the individual's needs meet the minimum standards for admission to a NF and do not exceed the level of services which can be delivered in the particular NF to which the individual is admitted. A particular NF is not an appropriate placement either when its normal nursing services are inadequate to meet the needs of the individual, or when the individual is unable to access necessary specialized services at that facility.

"DDA PASRR assessor" is a DDA employee who performs PASRR level II evaluations, as described in section 388-834-0020 WAC.

"Intellectual disability or related condition" means a condition that meets the criteria listed in 42 C.F.R. §483.102 (b)(3) and 42 C.F.R. §435.1010. A client enrolled in DDA is already determined to have a condition meeting these criteria, but eligibility for DDA is not required for a determination

that an individual has an intellectual disability or related condition.

"PASRR level I screening" means a screening that is completed when an individual is referred to a medicaid-certified nursing facility by a physician, hospital, or other referring entity or when a NF resident experiences a significant change of condition.

"PASRR level II evaluation" means an evaluation that is completed when a possible intellectual disability or related condition or serious mental illness is identified by the PASRR level I screening. The level II determines whether the person: has an intellectual disability or related condition, needs nursing facility care, and needs specialized services for intellectual disability or related condition or serious mental illness while in the nursing facility.

"Specialized service" means a service or device, in addition to nursing facility care, required by a nursing facility resident who has an intellectual disability or related condition to function with as much self-determination and independence as possible and/or to preserve or increase the individual's functional status per 42 C.F.R. §483.120.

NEW SECTION

WAC 388-834-0015 When is a PASRR level I completed? When an individual is referred to a medicaid-certified nursing facility, a PASRR level I screening is completed to determine if the individual has a serious mental illness, an intellectual disability or related condition, or both.

NEW SECTION

WAC 388-834-0020 Is a PASRR level I or level II required for a readmission or interfacility transfer? (1) A readmission occurs when an individual is readmitted to a nursing facility from a hospital to which he or she was transferred for the purpose of receiving care. Readmissions are not subject to preadmission screening if the PASRR process was completed upon the initial admission and the information remains accurate.

(2) An interfacility transfer occurs when an individual is transferred from one NF to another NF, with or without an intervening hospital stay. Transfers are not subject to preadmission screening if the PASRR process was completed upon the initial admission and the information remains accurate. The sending facility is responsible for ensuring that copies of the resident's most recent PASRR and resident assessment reports accompany the transferring resident.

NEW SECTION

WAC 388-834-0025 When is a PASRR level II completed? (1) If a PASRR level I screening indicates that the individual either has or may have a serious mental illness, an intellectual disability or related condition, or both, the screener must refer the individual to a contracted mental health PASRR evaluator (for serious mental illness) and/or a DDA PASRR evaluator (for intellectual disability or related condition) for a PASRR level II evaluation.

(2) If a person meets the criteria for both serious mental illness and intellectual disability or related condition, both evaluations must be completed.

(3) If a NF resident who has a serious mental illness or an intellectual disability or related condition experiences a significant change of condition, a new level II evaluation is completed.

NEW SECTION

WAC 388-834-0030 How is the PASRR level II evaluation completed for screenings indicating an intellectual disability or related condition? When an individual is referred to a DDA PASRR evaluator for a level II evaluation, the DDA PASRR evaluator reviews the individual's records and speaks with the individual and others who have relevant information. The DDA PASRR evaluator determines:

- (1) Whether the individual does in fact have an intellectual disability or related condition;
- (2) If so, whether nursing facility placement is appropriate to meet his or her needs; and
- (3) If so, whether the individual will require specialized services while at the nursing facility.

NEW SECTION

WAC 388-834-0035 Can an individual be admitted to a nursing facility before the PASRR level II evaluation is completed? (1) If a level I screening does not identify a possible serious mental illness or intellectual disability or related condition, the individual may be admitted to a nursing facility directly.

(2) If a level I screener has referred an individual for a level II evaluation, the individual cannot be admitted to a nursing facility until the level II evaluation is completed, except when:

- (a) The individual is admitted directly from a hospital after receiving acute inpatient care;
- (b) The individual requires nursing facility services for the condition for which he or she received care in the hospital; and
- (c) The individual's attending physician has certified in the PASRR level I that the individual is likely to require fewer than thirty days of nursing facility services.

(3) A DDA PASRR evaluator may do an abbreviated evaluation that is sufficient to determine whether the individual has an intellectual disability or related condition, whether the individual meets nursing facility level of care requirements, and whether the individual needs specialized services at that time, with the full PASRR level II report to follow.

(4) A DDA PASRR evaluator may categorically determine that specialized services are not needed for the following types of admission:

- (a) Protective services stay of not more than seven days;
 - (b) Respite in a NF for not more than thirty days.
- (5) Categorical determinations for DDA clients can only be made by a DDA PASRR evaluator.

NEW SECTION

WAC 388-834-0040 What is the process when a DDA PASRR evaluator determines that nursing facility placement is appropriate for an individual and that the individual requires specialized services? When a DDA PASRR evaluator determines through a level II evaluation that a nursing facility is an appropriate placement for an individual, and that the individual will require specialized services while residing in the nursing facility, the evaluator:

- (1) Informs the individual and his or her family or guardian (as appropriate) of the determinations and the individual's appeal rights;
- (2) Provides the nursing facility with a copy of the PASRR level II evaluation; and
- (3) Coordinates with the individual, nursing facility, and service provider to ensure that the recommended specialized services are provided.

NEW SECTION

WAC 388-834-0045 How does DDA provide notice of PASRR determinations? (1) DDA provides written notice of all PASRR determinations to the following entities:

- (a) The evaluated individual and his or her legal representative;
 - (b) The admitting or retaining nursing facility;
 - (c) The individual or resident's attending physician; and
 - (d) The discharging hospital, unless the individual is exempt from preadmission screening as provided for at 388-834-0035 (1), (2), or (4).
- (2) The written notice will include:
- (a) Whether a nursing facility level of service is needed;
 - (b) Whether specialized services are needed;
 - (c) The placement options that are available to the individual consistent with these determinations;
 - (d) The rights of the individual to appeal the determinations; and
 - (e) A copy of the full PASRR report.

NEW SECTION

WAC 388-834-0050 What appeal rights does an individual have related to PASRR? (1) Individuals who have been evaluated by a DDA PASRR evaluator have the right to an administrative hearing to dispute the following determinations by the evaluator:

- (a) That nursing facility placement is not appropriate to meet the individual's needs;
 - (b) That the individual does not require specialized services.
- (2) Any decision rendered by the office of administrative hearings (OAH) is an initial decision appealable to the HCA's board of appeals (BOA).

NEW SECTION

WAC 388-834-0055 Are there any other rules related to PASRR? PASRR requirements for medicaid-certified nursing facilities may be found in chapter 388-97 WAC, as well as in 42 C.F.R. §483 Subpart C 483.100 - 483.138.

WSR 15-19-057
PROPOSED RULES
DEPARTMENT OF HEALTH
(Veterinary Board of Governors)
[Filed September 11, 2015, 2:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-03-072.

Title of Rule and Other Identifying Information: WAC 246-934-100 Sexual misconduct, the veterinary board of governors (VBOG) is proposing rule modification to sexual misconduct standards to clarify what forcible or nonconsensual acts are within the definition of sexual misconduct by veterinary health care providers.

Hearing Location(s): Creekside Two at CenterPoint, 20425 72nd Avenue South, Room 307, Kent, WA 98032, on December 7, 2015, at 11:00 a.m.

Date of Intended Adoption: December 7, 2015.

Submit Written Comments to: Lorelei Walker, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by November 19, 2015.

Assistance for Persons with Disabilities: Contact Lorelei Walker by November 20, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule clarifies what forcible or nonconsensual acts are within the definition of sexual misconduct. The proposed rule also updates and establishes clearer standards of conduct for veterinary health care providers by adding to the existing rules sexual contact with any person, including people who are not clients or key parties that involves force, intimidation, lack of consent, or a conviction of a sex offense listed in RCW 9.94A.030.

Reasons Supporting Proposal: The department's experience with investigating and enforcing the current rule has raised the need to clarify what acts constitute sexual misconduct. The proposal will establish clearer standards of conduct for providers and will help the consistent enforcement of sexual misconduct rules to more fully comply with RCW 18.130.062 and Executive Order 06-03.

Statutory Authority for Adoption: RCW 18.92.030, 18.130.050, 18.130.062.

Statute Being Implemented: RCW 18.130.062.

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

Name of Proponent: VBOG, governmental.

Name of Agency Personnel Responsible for Drafting: Brett Lorentson, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4611; Implementation and Enforcement: Lorelei Walker, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4947.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(d), a small business economic impact statement is not required for proposed rules that only clarify the language of a rule without changing its effect.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328 (5)(b)(iv). Rule making that only

clarifies language of a rule without changing its effect does not require a cost-benefit analysis.

September 11, 2015
Ethan C. Nelson, DVM
Chair

AMENDATORY SECTION (Amending WSR 07-06-027, filed 2/28/07, effective 3/31/07)

WAC 246-934-100 Sexual misconduct. (1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a key party, inside or outside the health care setting. Key party initiation or consent does not excuse or negate the health care provider's responsibility. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes, but is not limited to:

- (a) Sexual intercourse;
 - (b) Touching the breasts, genitals, anus or any sexualized body part;
 - (c) Rubbing against a key party for sexual gratification;
 - (d) Kissing, touching, fondling or caressing of a romantic or sexual nature;
 - (e) Encouraging masturbation or other sex act in the presence of the health care provider;
 - (f) Masturbation or other sex act by the health care provider in the presence of the key party;
 - (g) Suggesting the possibility of a sexual or romantic dating relationship;
 - (h) Discussing the sexual history, preferences or fantasies of the health care provider;
 - (i) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
 - (j) Making statements regarding the key party's body, sexual history, or sexual orientation;
 - (k) Any verbal or physical contact which may reasonably be interpreted as sexually demeaning;
 - (l) Taking sexually explicit photographs or films of a key party;
 - (m) Showing a key party sexually explicit photographs.
- (2) Sexual misconduct also includes contact with any person involving force, intimidation, or lack of consent, or a conviction of a sex offense as defined in RCW 9.94A.030.

- (3) A health care provider shall not:
- (a) Offer to provide health care services or professional knowledge in exchange for sexual favors;
 - (b) Use health care information to contact the key party for the purpose of engaging in sexual misconduct or to meet the health care provider's sexual needs.
 - (3) A health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former key party when:
 - (a) There is a significant likelihood that the key party will seek or require additional services from the health care provider; or
 - (b) The provider uses or exploits the trust, knowledge, influence or emotions derived from the professional relationship; or
 - (c) The health care provider uses or exploits privileged information or access to privileged information to meet the health care provider's sexual needs.

(4) When evaluating whether a health care provider is attempting to engage, or has engaged, in sexual misconduct, the board may consider factors(±) including, but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the health care provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the health care provider-patient relationship;

(d) Amount of time that has passed since the last health care services were rendered to the patient;

(e) Communication between the health care provider and the key party between the last health care services rendered and commencement of the personal relationship;

(f) Nature of the patient's health condition during and since the professional relationship;

(g) The key party's emotional dependence and vulnerability; and

(h) Normal revisit cycle for the profession and service.

(5) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for legitimate health care purpose and that meets the standard of care appropriate to the profession; or

(c) Providing health care services for a legitimate health care purpose to an animal patient for a key party who is in a preexisting, established personal relationship with a health care provider where there is no evidence of, or potential for, exploiting the key party.

(6) Sexual conduct or sexual contact with an animal as defined in RCW 16.52.205 is unprofessional conduct. Violation of RCW 16.52.205 will be reported to the appropriate jurisdiction.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-19-079
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed September 15, 2015, 8:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-12-053.

Title of Rule and Other Identifying Information: Amends WAC 181-79A-257, clarifying requirements for out-of-state educator candidate assessments.

Hearing Location(s): Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, on November 5, 2015, at 8:30.

Date of Intended Adoption: November 5, 2015.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail

david.brenna@k12.wa.us, fax (360) 586-4548, by October 29, 2015.

Assistance for Persons with Disabilities: Contact David Brenna by October 29, 2015, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 181-79A-257 provides requirements for being granted a reciprocal certification for educators who are licensed in another state, including the assessments required for teachers.

Reasons Supporting Proposal: Clarifies requirements.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

September 15, 2015

David Brenna

Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 14-13-006, filed 6/5/14, effective 7/6/14)

WAC 181-79A-257 Out-of-state candidates. Candidates for certification from other states who meet the general certificate requirements described in WAC 181-79A-150 (1) and (2) shall be eligible for Washington certificates as follows:

(1) Residency certificates. The residency certificate shall be issued by the superintendent of public instruction to any candidate who meets requirements for the residency certificate including testing requirements as described in RCW 28A.410.220, and who meets one of the following:

(a) Holds the appropriate degree and, if applicable, credit hours and/or licensing as set forth in this chapter has completed a state approved preparation program in the professional field for which the certificate is to be issued and such additional professional fields as required by WAC 181-79A-150(4). Such programs shall include a defined course of study and a supervised internship.

(b) Provided, That if a candidate for teacher, administrator or educational staff associate certification does not meet the qualifications described in (a) of this subsection, a residency certificate shall be issued to a candidate who:

(i) Holds an appropriate degree from a regionally accredited college or university.

(ii) Holds or has held a certificate in the role, comparable to a residency certificate, issued by another state and has practiced at the P-12 level in the role outside the state of

Washington for at least three years within the last seven years.

(c) Holds an appropriate degree from a regionally accredited college or university and has practiced three years as an educational staff associate in that role in a state where such certificate was not required.

(d) Holds a valid Nationally Certified School Psychologist (NCSP) certificate issued by the National School Psychology Certification Board (NSPCB) after December 31, 1991, and applies for an initial/residency educational staff associated school psychologist certificate.

(2) Professional certificate. After August 31, 2000, the professional certificate shall be issued to out-of-state candidates if the candidate meets requirements for the residency certificate including testing requirements as described in RCW 28A.410.220, meets the child abuse course work requirement as described in WAC 181-79A-206 (3)(b), and if one of the following conditions is met:

(a) The candidate has completed an advanced level certification procedure approved by the professional educator standards board as equivalent to the approved program procedure required in Washington; or

(b) The candidate holds a valid teaching certificate issued by the National Board for Professional Teaching Standards; or

(c) The candidate holds a valid school counselor certificate issued by the National Board for Professional Teaching Standards; or

(d) A Washington state college or university with an approved professional certificate program verifies that the candidate has met all the requirements of that institution's approved program. The college/university shall evaluate the candidate's background to determine whether or not course work or certification activities are equivalent to that college/university's approved program.

(3) As per RCW 18.340.020 out-of-state candidates who are military spouses shall receive expedited issuance of the appropriate certificate in accordance with this section.

(4) Out-of-state candidates must meet the assessment requirements per chapters 181-01 and 181-02 WAC. Equivalent assessments will be published by the board.

WSR 15-19-082
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed September 15, 2015, 2:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-083.

Title of Rule and Other Identifying Information: WAC 388-148-1320 When will the department grant me a foster family license? and 388-145-1335 What additional steps must I complete prior to licensing?

The department is proposing new language to WAC 388-148-1320(4) and 388-145-1332(4) to provide further instruc-

tions on how to proceed with foster care applicants and their household members over the age of eighteen years or agency staff that have a positive tuberculosis (TB) test due to latent TB.

This update will also include changes to WAC 388-148-1320(6) and 388-145-1335(5) to allow for a medical exemption to the requirement for proof of the influenza vaccination if the vaccination would result in a severe medical consequence to the person and there is no other form of influenza vaccine that would not cause severe medical consequences. This will allow these applicants and agencies that otherwise meet all other licensing regulations to be licensed for birth to two years of age with a medical doctor's (MD) statement.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 28, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 27, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by October 13, 2015, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current WAC does not allow for exemptions for the influenza vaccination or for a positive TB result. The requested revisions for WAC 388-148-1320 (4), (6) and 388-145-1335 (4), (5) will allow the department to license these homes or agencies that otherwise meet the minimum licensing requirements with an MD's statement.

Reasons Supporting Proposal: The proposal will allow the department to license these homes and agencies that otherwise meet the minimum licensing requirements with an MD's statement.

Statutory Authority for Adoption: RCW 74.15.010, 74.15.030, 74.15.040, 74.15.090, 74.13.031.

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, Implementation, and Enforcement: Kristina Wright, Olympia, Washington, OB2, (360) 902-8349.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The department of social and health services' (DSHS) children's administration (CA) is proposing amendments to WAC 388-145-1335 (4), (5) and 388-148-1320 (4), (6), licensing requirement for group care facilities and child foster homes.

The intent of the WAC revisions are to provide foster parents, department staff, and group care facilities additional

clarification regarding the required TB test and influenza vaccination.

The proposed language change to WAC 388-148-1320 (4) and 388-145-1335(4) provides further instructions on how to proceed with foster care applicants and their household members over the age of eighteen, or agency staff that have a positive TB test due to latent TB. These applicants will be required to obtain a physician's statement noting that they are not contagious, nor do they pose a risk to others. Once the physician's statement is provided to the division of licensed resources (DLR) and they have been determined to meet all other licensing regulations they will be issued a foster care license or approved to work unsupervised at a group care facility.

WAC 388-148-1320(6) and 388-145-1335(5) currently require that the applicant and all household members, or agency staff or volunteers to have proof of the influenza vaccination if being licensed to care for children under the age of two years. This WAC revision will allow for a medical exception to this requirement if the vaccination would result in a severe medical consequence to the person and there is no other form of influenza vaccine that would not cause severe medical consequences. This will allow these applicants and agencies that otherwise meet all other licensing regulations to be licensed for birth to two years of age with an MD's statement.

These changes have been requested by foster parents, DSHS agency staff, group care facilities, and child placing agencies. There will be no other content or language changes to WAC 388-148-1320 or 388-145-1335.

DLR licensing requirements were last amended on January 11, 2015.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS)—DETERMINATION OF NEED: Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute defines small businesses as those business entities that employ fifty or fewer people and are independently owned and operated.

These proposed rules impact child placing agency foster homes and group care facilities. These businesses fall under the child group foster homes designation by the North American Industry Classification System (NAICS) codes (#623990).

Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses. The statute outlines information that must be included in an SBEIS.

The CA has analyzed the proposed rule amendments and has determined that small businesses will not be disproportionately impacted by these changes. There are no additional costs to group care facilities with the implementation of the WAC revisions noted above.

INDUSTRY ANALYSIS: The DLR, CA, is responsible for the development and regulatory oversight of all licensing requirements for group residential facilities per chapter 74.15 RCW. As part of their monitoring, DLR keeps a current internal database that identifies all affected small businesses.

Most of the facilities with whom CA contracts are considered to be small businesses employing fewer than fifty

staff. These proposed rules impact the licensing group care facilities.

INVOLVEMENT OF SMALL BUSINESSES: DLR involved group residential care stakeholders. An e-mail survey was sent out to the one hundred thirty-two group care facilities licensed by the DLR statewide. These small businesses were asked whether or not the implementation of the proposed WAC revision for practice changes related to TB and the influenza vaccination would cause additional costs to your group care facility. All of the agencies that responded indicated that there would not be additional costs.

COST OF COMPLIANCE: Under RCW 19.85.020, CA has considered annual costs to small businesses that are fifty dollars or more per child served annually.

GENERAL COSTS: DLR's analysis revealed that there are no costs imposed by the proposed amendments. An e-mail survey was sent out to the one hundred thirty-two group care facilities that the DLR licenses statewide. Out of one hundred thirty-two e-mails sent, twelve responses were received and one hundred percent reported that the implementation of the proposed WAC revision would not cause any additional cost to the group care facilities.

BENEFITS FOR PROPOSED RULES: The proposed revisions for WAC 388-148-1320 (4), (6) and 388-145-1335 (4), (5) will allow DLR to license these homes that otherwise meet the minimum licensing requirements with a physician's statement for the TB or an MD's statement for the influenza exemption. Therefore, allowing DLR to license additional foster homes that the current WAC does not permit.

JOBS CREATED OR LOST: We do not anticipate that jobs will be lost or created as a result of these rules. However, this will make it easier for foster parents and group care facilities to be licensed to care for children ages birth to two years. This proposed WAC change was asked for by the stakeholders.

CONCLUSION: The DLR, CA has given careful consideration to the impact of proposed rules in chapter 388-145 WAC, Licensing requirements for group care facilities and chapter 388-148 WAC, child foster homes, would have on small businesses. To comply with the Regulatory Fairness Act, chapter 19.85 RCW, DLR has analyzed impacts on small businesses and there is no cost to group care facilities with the proposed WAC amendments.

Please contact Kristina Wright if you have questions.

A copy of the statement may be obtained by contacting Kristina Wright, 1115 Washington Street, Olympia, WA 98504-5710, phone (360) 902-8349, fax (360) 902-7903, e-mail wrightks@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kristina Wright, 1115 Washington Street, Olympia, WA 98504-5710, phone (360) 902-8349, fax (360) 902-7903, e-mail wrightks@dshs.wa.gov.

September 15, 2015
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-145-1335 What additional steps must I complete prior to licensing? (1) You must submit to your licensor a detailed written program description for DLR approval. In the description you must outline:

- (a) Your mission and goals;
- (b) A description of the services you will provide to children and their families;
- (c) Your written policies covering qualifications, duties and ongoing training for developing and upgrading staff skills; and
- (d) A description of your agency's policies and procedures.
- (e) For staffed residential facilities in family homes, you must provide a written plan to the child's DSHS worker for the supervision of children in your care if you work outside of your staffed residential home.

(2) You must have a site inspection by your DLR licensor or someone designated by DLR who can verify that your premises have:

- (a) Adequate storage for staff and client files;
- (b) A landline working telephone;
- (c) Adequate space for privacy when interviewing parents and children;
- (d) Room or area used for administrative purposes;
- (e) Adequate space for visitation;
- (f) Appropriate furnishings for the children in your facility; and
- (g) Your license clearly posted (if inspection is for a renewal license).

(3) All facilities described in this chapter, (except for staffed residential homes for five or fewer children), are required to meet the health requirements to receive a certificate of compliance from the Washington state department of health (DOH) and the fire safety requirements from the Washington state patrol fire protection bureau (WSP/FPB).

(4) You, your employees and volunteers are required to submit a negative tuberculosis test or an X ray. If there is a positive TB test, then the individual must submit a physician's statement identifying that there is no active TB or risk of contagion to children in care.

(a) We may grant an exception to the TB test requirement, in consultation with a licensed health care provider.

(b) This exception would require a statement from a licensed health care provider (MD, DO, ND, PA or ARNP) indicating that a valid medical reason exists for not having a TB test.

(5) If you are being licensed to care for children under the age of two, you, your employees and volunteers working in the facility caring for children under the age of two are required to provide documentation verifying you have current pertussis and influenza vaccinations. The department may license you to serve children under the age of two even though you, your employees or volunteers are unable to obtain an influenza vaccination for medical reasons. In this case, a medical doctor's (MD) statement is required noting that the influenza vaccination would result in severe medical consequences to the person and that there is no other form of the influenza vaccine that would not cause severe medical

consequences. All other employees or volunteers must still be vaccinated. We recommend (but do not require) these immunizations for you, your employees and volunteers when you serve children age two and older.

(6) You must have proof of current immunizations for any children living on the premises, not in out-of-home care. We may, in consultation with a licensed health care provider, grant exceptions to this requirement if you have a statement from a licensed health care provider (MD, DO, ND, PA or ARNP).

AMENDATORY SECTION (Amending WSR 15-01-069, filed 12/11/14, effective 1/11/15)

WAC 388-148-1320 When will the department grant me a foster family license? (1) We issue you a license when you and everyone in your household meet the licensing requirements contained in this chapter, and all required documents are in the licensing file.

(2) You and other caregivers over the age of eighteen must:

(a) Complete first aid training and age-appropriate adult and/or infant CPR (cardiopulmonary resuscitation). Training must be department approved and accredited with nationally recognized standards; and

(b) Complete HIV/AIDS and bloodborne pathogens training including infection control standards consistent with educational materials published by the department of health, office on HIV/AIDS.

(3) You, your household members and anyone else having unsupervised contact with your foster child(ren) must pass the following background check requirements per chapter 388-06 WAC (This includes people living on any part of your property):

(a) Anyone over the age of sixteen must pass a criminal history check.

(b) Anyone over the age of eighteen must pass an FBI fingerprint check.

(c) Anyone over the age of eighteen must complete a child abuse and neglect registry check from each state they have lived in over the past five years indicating:

(i) No license denials or revocations from an agency that regulates the care of children or vulnerable adults, unless the department determines that you do not pose a risk to a child's health, safety, well-being and long-term stability; and

(ii) No finding or substantiation of abuse or neglect of a child or a vulnerable adult, unless the department determines that you do not pose a risk to a child's safety, well-being, and long-term stability.

(4) You, and your household members over the age of eighteen must submit a negative tuberculosis test or an X-ray, unless you can demonstrate a medical reason prohibiting the TB test, or have had a negative TB test in the previous twelve months. If there is a positive TB test, then the individual must submit a physician's statement identifying that there is no active TB or risk of contagion to children in care.

(5) You must have proof of current immunizations for any children living on your premises, not in out-of-home care. We may, in consultation with a licensed health care provider, grant exception to this requirement if you have a state-

ment from a licensed health care provider (MD, DO, ND, PA and ARNP).

(6) We recommend that you have pertussis and influenza immunizations. The department will not license you to serve foster children under the age of two, without proof of pertussis and influenza immunizations for all people living in your home. The department may license you to serve children under the age of two even though you or someone in your home is unable to obtain an influenza vaccination for medical reasons. In this case, a medical doctor's (MD) statement is required noting that the influenza vaccination would result in severe medical consequences to the person and that there is no other form of the influenza vaccine that would not cause severe medical consequences. All other persons in the home must still be vaccinated.

(7) Before granting or renewing a license, your licensor will assess your ability to provide a safe home and to provide the quality of care needed by children placed in your home. Your licensor will also determine that you meet training requirements.

(8) Foster children under the care and authority of the department living in your home do not need to obtain a criminal history check, FBI fingerprint check or TB test.

WSR 15-19-094
PROPOSED RULES
DEPARTMENT OF LICENSING
 [Filed September 17, 2015, 11:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-120.

Title of Rule and Other Identifying Information: WAC 308-18-150 Private security guard company, private security guard, and armed private security guard fees.

Hearing Location(s): Department of Licensing, Business and Professions Division, 405 Black Lake Boulevard, Room 2209, Olympia, WA 98507-9649, on October 28, 2015, at 1:00 p.m.

Date of Intended Adoption: November 3, 2015.

Submit Written Comments to: Karla Laughlin, Administrator, Department of Licensing, Security Guard Program, P.O. Box 9649, Olympia, WA 98507, e-mail security@dol.wa.gov, fax (360) 570-7778, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Mary Haglund by October 27, 2015, TTY (360) 664-0116 or (360) 664-6611.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to separate out the background check fee from the licensing fee. This will ensure the licensing program collects accurate fees when the Washington state patrol and/or the Federal Bureau of Investigation increases or decreases fees.

Reasons Supporting Proposal: To be able to collect the licensing fee separate from the background check fees.

Statutory Authority for Adoption: RCW 18.170.180.

Statute Being Implemented: Chapter 18.170 RCW.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Mary Haglund, Olympia, (360) 664-6658; and Enforcement: Karla Laughlin, Olympia, (360) 664-6608.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not meet the criteria which requires conducting an economic impact statement under RCW 19.85.020.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does not meet the criteria which requires conducting a cost-benefit analysis under RCW 34.05.328.

September 17, 2015

Damon Monroe

Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-19-056, filed 9/12/08, effective 11/1/08)

WAC 308-18-150 Private security guard company, private security guard, and armed private security guard fees. Licenses issued to private security guard companies and private security guards expire one year from the date of issuance and must be renewed each year. The fees are as follows:

Title of Fee	Fee
Private security guard company/principal:	
Application/includes first examination <u>plus background check fee</u>	\$ (350.00) 330.00
Reexamination	25.00
License renewal	300.00
Late renewal with penalty	400.00
Change of principal/includes first examination <u>plus background check fee</u>	(400.00) 80.00
Principal armed endorsement	10.00
Private security guard:	
Original license <u>plus background check fee</u>	(441.00) 91.00
Armed endorsement	10.00
Transfer fee	25.00
Licensees with inactive licenses are not required to pay late renewal penalty fees.	
License renewal	85.00
License late renewal with penalty.	90.00
Late fee is not due if submitting a renewal with a transfer or rehire application.	
Certified trainer endorsement examination/reexamination	25.00
Certified trainer endorsement renewal	15.00
Duplicate license	10.00

WSR 15-19-095
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 [Filed September 17, 2015, 11:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-06-054.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food?, 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASHCAP benefits?, and 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?, to implement annual adjustments to standards for the Washington Basic Food program.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on October 27, 2010 [2015], at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 28, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 27, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by October 13, 2015, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments increase the following: Basic Food standard deduction for four person households to \$168, five person households to \$197, and six or more person households to \$226; the maximum shelter deduction to \$504; the standard utility allowance to \$420; the limited utility allowance to \$340; the maximum gross monthly income and maximum net monthly income limit for household[s] that are not categorically eligible for basic food; and the one hundred sixty-five percent federal poverty level standard.

Reasons Supporting Proposal: The proposed amendments adopt Basic Food standards for federal fiscal year (FY) 2016 in order to comply with requirements of the United States Department of Agriculture, Food and Nutrition Service (FNS), per supplemental nutrition assistance program (SNAP) Administrative Notice 15-28: SNAP - FY 2016 Cost-of-Living Adjustments (COLAs) dated August 11, 2015. The amendments update Basic Food standards for federal FY 2016 to comply with requirements of the United States Department of Agriculture, FNS 7 C.F.R. § 273.9 (d)(iii)(B), and update the Basic Food standard utility allowance (SUA) and limited utility allowance (LUA) used to comply with SNAP 10-6-WA-SUA dated August 18, 2015.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120.

Rule is necessary because of federal law, 7 C.F.R. § 273.9 (d)(iii)(B).

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Holly St. John, community services division, (360) 725-4895.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

September 15, 2015
 Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-02-041, filed 1/2/15, effective 2/2/15)

WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?

We determine if your assistance unit (AU) is eligible for Basic Food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

These federal laws allow us to subtract **only** the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(1) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
1	\$155
2	\$155
3	\$155
4	\$((165)) <u>168</u>
5	\$((193)) <u>197</u>
6 or more	\$((221)) <u>226</u>

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense needed for an AU member to:

(a) Keep work, look for work, or accept work;

(b) Attend training or education to prepare for employment; or

(c) Meet employment and training requirements under chapter 388-444 WAC.

(4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.

(5) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 15-02-041, filed 1/2/15, effective 2/2/15)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

- (a) Monthly rent, lease, and mortgage payments;
- (b) Property taxes;
- (c) Homeowner's association or condo fees;
- (d) Homeowner's insurance for the building only;
- (e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if you:

- (i) AU intends to return to the home;
- (ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and
- (iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (4) from your AU's gross income. The result is your AU's countable income.

(3) Finally, we subtract one-half of your AU's countable income from your AU's total shelter costs. The result is your

excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of ~~((four))~~ five hundred ~~((ninety))~~ four dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over ~~((four))~~ five hundred ~~((ninety))~~ four dollars.

AMENDATORY SECTION (Amending WSR 15-02-041, filed 1/2/15, effective 2/2/15)

WAC 388-450-0195 Does the department use my utility costs when calculating my Basic Food or WASH-CAP benefits? (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive WASHCAP; or

(b) Shelter cost income deduction under WAC 388-450-0190 for Basic Food.

(2) For Basic Food, "utilities" include the following:

- (a) Heating or cooling fuel;
- (b) Electricity or gas;
- (c) Water;
- (d) Sewer;
- (e) Well installation/maintenance;
- (f) Septic tank installation/maintenance;
- (g) Garbage/trash collection; and
- (h) Telephone service.

(3) We use the amounts below if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs **or** receives more than twenty dollars in Low Income Home Energy Assistance Act (LIHEAA) benefits each year, you get a standard utility allowance (SUA) of four hundred ~~((fifteen))~~ twenty dollars.

(b) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (2) of this section, you get a limited utility allowance (LUA) of three hundred ~~((thirty-six))~~ forty dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of sixty-five dollars.

AMENDATORY SECTION (Amending WSR 15-02-041, filed 1/2/15, effective 2/2/15)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE ~~((10/1/2014))~~ 10/1/2015

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$(1,265)) <u>1,276</u>	\$(973)) <u>981</u>	\$194	\$(1,605)) <u>1,619</u>
2	((1,705)) <u>1,726</u>	((1,311)) <u>1,328</u>	357	((2,163)) <u>2,191</u>

EFFECTIVE ((10/1/2014)) 10/1/2015

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
3	((2,144)) <u>2,177</u>	((1,650)) <u>1,675</u>	511	((2,722)) <u>2,763</u>
4	((2,584)) <u>2,628</u>	((1,988)) <u>2,021</u>	649	((3,280)) <u>3,335</u>
5	((3,024)) <u>3,078</u>	((2,326)) <u>2,368</u>	771	((3,838)) <u>3,907</u>
6	((3,464)) <u>3,529</u>	((2,665)) <u>2,715</u>	925	((4,396)) <u>4,479</u>
7	((3,904)) <u>3,980</u>	((3,003)) <u>3,061</u>	1,022	((4,955)) <u>5,051</u>
8	((4,344)) <u>4,430</u>	((3,341)) <u>3,408</u>	1,169	((5,513)) <u>5,623</u>
9	((4,784)) <u>4,881</u>	((3,680)) <u>3,755</u>	1,315	((6,072)) <u>6,195</u>
10	((5,224)) <u>5,332</u>	((4,019)) <u>4,102</u>	1,461	((6,631)) <u>6,767</u>
Each Additional Member	+((440)) <u>451</u>	+((339)) <u>347</u>	+146	+((559)) <u>572</u>

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

tration while receiving Basic Food?, and 388-444-0035 Who is exempt from ABAWD work requirements?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 28, 2015.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 27, 2015.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by October 13, 2015, phone (360) 664-6092, TTY (360) 664-6178, or e-mail KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-444-0005, 388-444-0010, and 388-444-0035 to align WAC with the Code of Federal Regulations (C.F.R.). Proposed changes define able-bodied adults without dependents (ABAWD) as a subset of work registrants, allow the department to review work registration at recertification, and add policy regarding work registration and ABAWD exemptions related to inability to work.

Reasons Supporting Proposal: This rule making is related to improving compliance with work registration as required in an Employment and Training Management Evaluation by the Food and Nutrition Service conducted on April 27 through May 1, 2015. These changes will also assist the department in complying with upcoming ABAWD waiver changes.

WSR 15-19-100**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed September 17, 2015, 3:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-052.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-444-0005 Am I required to work or look for work in order to be eligible for Basic Food?, 388-444-0010 Who is exempt from work regis-

Statutory Authority for Adoption: RCW 74.04.050, 74.04.005, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Statute Being Implemented: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Rule is necessary because of federal law, 7 C.F.R. 273.24 and 7 C.F.R. 273.7.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jason Turner, 712 Pear Street S.E., Olympia, WA 98501, (360) 725-4640.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small businesses. They only impact DSHS clients.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are exempt under RCW 34.05.328 (5)(b)(vii) and relate only to client medical or financial eligibility and rules concerning liability for care of dependents.

September 16, 2015
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-21-126, filed 10/22/13, effective 11/22/13)

WAC 388-444-0005 Am I required to register for work, work, or look for work in order to be eligible for Basic Food? Some people must register for work to receive Basic Food.

(1) If you receive Basic Food, we register you for work if you are:

(a) Age sixteen through fifty-nine (~~with dependents~~); and

(b) (~~Age sixteen or seventeen, not attending secondary school and not the head of household;~~

(c) ~~Age fifty through fifty nine with no dependents; or~~

(d) ~~Age eighteen through forty nine, able bodied and with no dependents as provided in WAC 388-444-0030~~) Not exempt from work registration under WAC 388-444-0010.

(2) (~~Unless you are exempt from work registration under WAC 388-444-0010~~) If we must register you for work, we register you (for work):

(a) When you apply for Basic Food benefits or are added to someone's assistance unit; and

(b) Every (~~twelve months~~) recertification thereafter.

(3) If we register you for work, you must:

(a) Contact us as required;

(b) Provide information regarding your employment status and availability for work if we ask for it;

(c) Report to an employer if we refer you;

(d) Not voluntarily quit a job or reduce your work effort as defined under WAC 388-444-0065 unless you have good cause under WAC 388-444-0070; and

(e) Accept a bona fide offer of suitable employment. We define unsuitable employment under WAC 388-444-0060.

(f) Not be sanctioned under WAC 388-310-1600 if you are a mandatory WorkFirst participant.

(4) If we register you for work, you must meet all of the requirements under subsection (3) of this section. If you do not meet these requirements, we disqualify you from receiving benefits as described in WAC 388-444-0055, unless you meet the good cause conditions as defined in WAC 388-444-0050.

AMENDATORY SECTION (Amending WSR 13-24-043, filed 11/26/13, effective 1/1/14)

WAC 388-444-0010 Who is exempt from work registration while receiving Basic Food? If you receive Basic Food, you are exempt from work registration and requirements in chapter 388-444 WAC if you meet any of the following conditions:

(1) You are age sixteen or seventeen, and:

(a) Not the head of household(~~(-and-)~~);

(~~(a)~~) (b) Attend school (~~(such as high school or high school equivalency programs)~~); or

(~~(b)~~) (c) Are enrolled at least half time (using the institutions definition) in an employment and training program under:

(i) The Workforce (~~(Investment)~~) Innovation and Opportunity Act of 2014 (WIOA);

(ii) Section 236 of the Trade Act of 1974; or

(iii) (~~(Another)~~) A state or local employment and training program.

(2) You are a student age eighteen or older enrolled at least half time as defined by the institution in:

(a) Any accredited school;

(b) A training program; or

(c) An institution of higher education. If you are enrolled in higher education, you must meet the requirements under WAC 388-482-0005 to be eligible for Basic Food benefits.

(3) You are an employed or self-employed person working at least thirty hours (~~(or more)~~) per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty;

(4) You are complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);

(5) You receive unemployment compensation (UC) benefits or have an application pending for UC benefits;

(6) You are responsible to care for:

(a) A dependent child under age six; or

(b) Someone who is incapacitated as defined under WAC 388-310-0350 (d)(i) through (v), except the person does not need to be related to you as stated in (d)(iii).

(7) (~~(We determine that)~~) You are physically or mentally unable to work as determined under WAC 388-310-0350 (1)(b); or

(8) You regularly participate in a drug addiction or alcoholic treatment and rehabilitation program.

AMENDATORY SECTION (Amending WSR 10-23-112, filed 11/17/10, effective 12/18/10)

WAC 388-444-0035 Who is exempt from the ABAWD time limits and minimum work requirements? Some persons receiving Basic Food are exempt from ABAWD time limits and minimum work requirements. You

are exempt from the ABAWD work requirements and time limits under WAC 388-444-0030 if you are:

~~(1) ((Under eighteen or fifty years of age or older;~~
~~(2))) Determined to be physically or mentally unable to work~~((;))~~ by any of the following:~~

(a) A DSHS approved source for at least a three month duration starting from when you request this exemption;

(b) A government agency issuing you disability benefits such as labor & industries; or

(c) A private company issuing you disability benefits such as workers compensation.

~~((3) A member of a household with responsibility for a person who is incapacitated;~~

~~(4) An adult in a household that has a member who is under the age of eighteen, even if the child is not eligible for Basic Food;~~

~~(5)) (2) Pregnant;~~

~~((6)) (3) Living in an area approved as exempt by U.S. Department of Agriculture (USDA);~~

~~((7) Complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);~~

~~(8) Applying for or receiving unemployment compensation;~~

~~(9) A student enrolled at least half time as defined by the institution in:~~

~~(a) Any accredited school;~~

~~(b) Training program; or~~

~~(c) Institution of higher education. A student enrolled in higher education must meet the requirements under WAC 388-482-0005 in order to be eligible for Basic Food.~~

~~(10) Participating in a chemical dependency treatment and rehabilitation program;~~

~~(11) Employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate multiplied by thirty hours;~~

~~(12)) (4) Eligible for one of the ((annual federal)) approved exemption slots under the USDA fifteen percent exemption rule.~~

(5) A recipient of the state-funded food assistance program (FAP) under WAC 388-400-0050.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 15-19-109

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed September 18, 2015, 2:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-12-080.

Title of Rule and Other Identifying Information: Amending WAC 36-13-010 License fees, renewals and requirements and 36-13-110 Miscellaneous provisions; and repealing WAC 36-13-050 Announcers.

Hearing Location(s): Department of Licensing, Business and Professions Division, Building 2, Floor 1, Conference Room 2105, 405 Black Lake Boulevard S.W., Olympia, WA 98502, on October 30, 2015, at 2 p.m.

Date of Intended Adoption: November 4, 2015.

Submit Written Comments to: Cameron Dalmas, Department of Licensing, Combative Sports Program, P.O. Box 9026, Olympia, WA 98507, e-mail plssunit@dol.wa.gov, fax (360) 664-2550, by October 29, 2015.

Assistance for Persons with Disabilities: Contact Cameron Dalmas by October 29, 2015, TTY (360) 664-0116 or (360) 664-6643.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules:

- Removes licensing requirements for announcers.
- Removes restrictions on the use of foul and profane language.
- Removes the department's requirement to approve all cancellations or postponements of wrestling events and the requirement that a small advance sale of tickets shall not be regarded as a reason for postponement or cancellation.

Reasons Supporting Proposal: Industry stakeholders have requested amendments to the rules and are in support of the proposed rules. The proposed rules are more in line with current industry standards and practices.

- Unlike boxing and martial arts where the announcer is required to announce the results of a bout as directed by the department, in wrestling there are no such requirements because the outcome of the bouts are predetermined. Removing this licensing requirement will not compromise the safety and welfare of the participants or have a significant impact on revenue collection.
- Unlike boxing and martial arts, professional wrestling is a form of theatrical entertainment where the use of unconventional language is typically customary in the industry. Removing restrictions on the use of unconventional language will allow the promoter to conduct their business under their own discretion as in any other type of theatrical entertainment without compromising safety.
- The requirement for the department to monitor the cancellation of events was put in place to protect the consumer from fraud or misrepresentation of tickets sales and is duplicative of existing law. Fraud and misrepresentation are already established as unprofessional conduct under chapter 67.08 RCW, the Boxing, Martial Arts and Wrestling Act and chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act.

Statutory Authority for Adoption: RCW 67.08.017, 43.24.023, and 43.24.086.

Statute Being Implemented: RCW 67.08.017.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Susan Colard, 405 Black Lake Boulevard S.W., Olympia, WA 98502, (360) 664-6643.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are exempt under RCW 34.05.32 [34.05.325].

A cost-benefit analysis is not required under RCW 34.05.328. Washington state department of licensing is not a named agency; therefore a cost-benefit analysis is not required under RCW 34.05.328.

September 18, 2015
 Damon Monroe
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-08-037, filed 4/1/10, effective 5/2/10)

WAC 36-13-010 License fees, renewals and requirements. (1) The license year is one year from date of issue. License fees are paid annually. Fees shall be as follows:

Wrestling participant	-	\$25.00
Inspector	-	\$65.00
((Announcer (nonparticipant)	-	(\$65.00)
Event physician	-	No charge
Promoter	-	\$200.00

(2) No license fee is required for persons licensed under chapter 36-12 or 36-14 WAC as an inspector, ~~((announcer,))~~ event physician or promoter.

(3) In addition to license requirements found in chapter 67.08 RCW, ~~((licensees and applicants))~~ wrestling participants shall submit a small photograph of themselves that is not more than two years old.

AMENDATORY SECTION (Amending WSR 11-03-028, filed 1/11/11, effective 2/11/11)

WAC 36-13-110 Miscellaneous provisions. (1) Dangerous conduct; punishment. The referee shall not permit physically dangerous conduct or tactics by any participant. Any participant who fails to discontinue such tactics, after being warned by the referee or a department official shall be disqualified and subject to disciplinary action.

(2) Wrestling participants or other licensees shall not engage in the practice known as "juicing." "Juicing" is the practice of using a razor blade or similar contrivance, or any other means to draw blood from oneself, one's opponent, or from any other participant of the wrestling exhibition or show. The referee shall immediately terminate any match in which blood from a participant appears from "juicing," and the participants shall cease the wrestling match and return to the dressing room. Should an accidental cut to a wrestling participant occur, the match may continue but should be concluded as soon as possible at the discretion of the referee.

(3) Duties of licensees. It shall be the duty of the promoter, his/her agents, employees, and the participants in any wrestling show or exhibition to maintain peace~~((;))~~ and

~~order((; and decency))~~ in the conduct of any show or exhibition. There shall be no abuse of a department official at any time. ~~((Foul and profane language by participants is prohibited.))~~

(4) Responsibility of promoter.

(a) Each promoter shall be directly responsible to the department for the conduct of its employees and any violation of the laws, rules, or regulations of the department by any employee of a promoter shall be deemed to be a violation by the promoter.

(b) Promoters are responsible for any violations of the law or department rules by their participants.

(c) Promoters shall provide an ambulance or paramedical unit with transport and resuscitation capabilities, with a minimum of two attendants, to be present at the event location at all times during the event.

~~(5) ((Postponement or cancellation. A small advance sale of tickets shall not be regarded as a legitimate reason for a postponement or cancellation. Indoor wrestling shows or exhibitions shall not be canceled for any reason except with the approval of the department.~~

~~((6))~~ Discrimination. Discrimination against any participant in regard to sex, race, color, creed or national origin shall be referred to the human rights commission.

~~((7))~~ (6) Appeals.

(a) Licensees may appeal any suspension or revocation to the department in the manner provided in chapter 34.05 RCW.

(b) Such appeals must be received in the department office within twenty days from the date of the notice sent by the department.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 36-13-050 Announcers.

WSR 15-19-110

PROPOSED RULES

SECRETARY OF STATE

[Filed September 18, 2015, 2:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-06-046.

Title of Rule and Other Identifying Information: Presidential primary rules.

Hearing Location(s): Office of the Secretary of State, Elections Division, 520 East Union Avenue, Olympia, WA 98501, on November 10, 2015, at 1 p.m.

Date of Intended Adoption: November 12, 2015.

Submit Written Comments to: Sheryl Moss, C & T Program Manager, P.O. Box 40220, Olympia, WA 98504, e-mail Sheryl.moss@sos.wa.gov, fax (360) 902-4146.

Assistance for Persons with Disabilities: Contact Sheryl Moss by November 9, 2015, (360) 902-4146.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rule changes are necessary to update procedures and clarify policies.

Reasons Supporting Proposal: Updating rules to reflect updated procedures and clarify policies.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: Chapter 29A.56 RCW.

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

Name of Proponent: Office of the secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Sheryl Moss, P.O. Box 40220, Olympia, WA 98504, (360) 902-4146; and Enforcement: Lori Augino, P.O. Box 40220, Olympia, WA 98504, (360) 902-4146.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 17, 2015

Mark Neary

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-060 Designation of candidates by secretary of state. Not less than ninety days prior to the date set for the presidential primary, the secretary of state shall compile a list of persons whose candidacy for the office of President of the United States is generally advocated or whose candidacy is generally recognized in the national news media. He or she shall promptly notify, in writing, the county auditors, the state and national chairpersons of each major political party, and each of the candidates whose names will be placed on the ballot at the presidential primary unless the candidate withdraws under WAC 434-219-115.

AMENDATORY SECTION (Amending WSR 96-03-141, filed 1/24/96, effective 2/24/96)

WAC 434-219-090 Form of the nominating petition. Nominating petitions shall be addressed to the secretary of state, be uniform in size, and shall contain the following:

(1) The name of the candidate and his or her political party;

(2) A statement that the persons signing the petition are registered voters of the state of Washington, that they are affiliated with the political party of the person on whose behalf the petition is filed, and that they have only signed the petition once;

(3) Numbered lines for no more than twenty signatures;

(4) Space for the signature, printed name, and street address at which each petition signer is registered to vote, including county of residence(=

~~(5) Space for the signer to list the name or number of his or her precinct, if known).~~

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

WAC 434-219-100 Verification of signatures by secretary of state. Upon receipt of any nominating petition filed pursuant to WAC 434-219-080, the secretary of state shall promptly canvass and verify the signatures in order to determine the validity of the petition. The secretary may reject, without verification of signatures, any petition that clearly bears insufficient signatures, any petition that is not accompanied by a consent to the nomination by the candidate, or any petition that is in a form inconsistent with the provisions of WAC 434-219-090. To the extent that it is not inconsistent with other provisions of these rules, the canvass and verification process may be observed in the same manner as that specified in RCW 29A.72.230 for the observation of the canvass and verification of initiative signatures. The secretary of state shall reject the signature of any person not registered to vote in Washington, and, if the same name is signed more than once, shall reject all but the first valid signature. No signature may be rejected solely on the basis that it is not accompanied by the street address (~~or precinct name or number~~), printed name, or county of residence of the signer.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

WAC 434-219-115 Withdrawal. Each candidate shall appear on the primary ballot unless, not later than sixty-seven days prior to the primary, the candidate files with the secretary of state a signed, notarized statement that he or she is not now and will not become a candidate for president. (~~The secretary of state shall promptly notify the county auditors, the chairperson of the national political party of that candidate, and all remaining candidates of any names removed from the list of candidates for the presidential primary.~~)

AMENDATORY SECTION (Amending WSR 07-24-044, filed 11/30/07, effective 12/31/07)

WAC 434-219-120 Certification of candidates. Immediately following the last day for candidates to withdraw, the secretary of state shall certify to the county auditors and state and national chairpersons of the major political parties the final list of candidates who will appear on the presidential primary ballot.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

WAC 434-219-155 (~~Party declaration on~~) Ballot materials. (1) Each (~~political party declaration shall be printed on the return envelope with the standard ballot declaration required by WAC 434-250-050.~~) county shall print declarations on the return envelopes in the same format and color as prescribed by the secretary of state which must include:

(a) The standard declaration per WAC 434-230-015 printed on the return envelope along with each political party declaration.

~~(b) Each political party declaration ((shall be)) printed with a checkbox for voters to indicate the party declaration to which they subscribe. ((The county auditor shall provide an instruction for the party declarations substantially similar to the following: "You must mark a party checkbox in order for your presidential primary vote to count. You may only select one party."~~

~~(2) The date and signature lines for the ballot declaration shall also serve as the date and signature lines for the political party declaration.~~

~~(3) In addition to other instructions normally provided to voters, the county auditor shall ensure that voters are given specific instructions on how to mark their ballot so that it will be counted in accordance with the oath they signed on the return envelope.)~~

~~(c) One signature line to serve as both the voter's standard ballot declaration and the signature for the voter's political party declaration.~~

~~(2) In addition to ballot requirements listed in WAC 434-230-015:~~

~~(a) County auditors must issue consolidated ballots that include the political party ballots printed on one side of a single sheet of paper.~~

~~(b) Each ballot must specify the election as "Presidential Primary."~~

~~(c) A political party checkbox must not be printed on the ballot.~~

~~(d) A "Democratic Party" heading within or under a blue shaded bar and a "Republican Party" heading within or under a red shaded bar printed immediately above the associated list of candidates. Other major political parties included in the primary must have similar headings and color.~~

~~(e) The ballot lists of candidates for president for each political party shall be printed in the following order:~~

~~The major political party that received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election must appear first. Other major political parties must follow according to the votes cast for their nominees for president at the last presidential election.~~

~~(f) Candidates shall be listed in alphabetical order within each political party as certified by the secretary of state.~~

~~(g) Following each list of candidates shall be a response position and a space for writing in the name of a candidate.~~

~~(h) Candidate names shall be printed in a type style and point size that can be read easily. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include, but are not limited to, printing a smaller point size or different type style.~~

~~(3) In addition to other instructions normally provided to voters, the county auditor shall include an insert. The insert must provide specific instructions on how to mark the ballot so the ballot will be counted in accordance with the political party declaration signed on the return envelope in substantially the same format as provided by the secretary of state.~~

~~(4) Provisional, service, overseas, special absentee and electronically delivered ballots must include political party declarations. If the political party declarations are not printed~~

on the return envelopes, both the ballot and political party declaration must be printed on a separate sheet of paper. The voter must be instructed to sign and place the declaration sheet into the ballot return envelope, outside the security envelope. Signatures on both the ballot declaration and the political party declaration are required to count a ballot.

(5) The following WAC sections do not apply to presidential primaries: WAC 434-230-025, 434-230-035, 434-230-045, 434-230-055, 434-230-085, 434-230-090, and 434-230-110.

NEW SECTION

WAC 434-219-200 Direct recording electronic voting devices (DRE). Ballots cast on direct recording electronic voting devices must be verified as matching the signed political party declaration.

(1) The voter must sign a standard ballot declaration form and select one political party ballot declaration.

(2) If using DREs, the county auditor must use a method that verifies the voter only casts votes according to the political party declaration marked. DREs may be programmed as separate ballots. For consolidated ballots, the county auditor must use one of the following methods:

(a) Provide a separate DRE designated for each political party.

(i) Verify the corresponding party ballots were cast on each device.

(ii) If all ballots cast are of the corresponding political party, all ballots shall be tabulated.

(iii) If any ballots were cast of the opposite political party, those ballots shall be referred to the canvassing board for rejection. All remaining ballots of the corresponding political party shall be duplicated and tabulated; or

(b) Provide a single DRE programmed with all political party ballots.

(i) Keep signed political party declarations in order of voting.

(ii) Compare the party declaration to the corresponding party vote on the ballot. If all ballots cast are of the corresponding political party, ballots shall be tabulated.

(iii) If any ballot fails to correspond with the declared party:

(A) Separate each ballot record and place each in a security envelope.

(B) Place the associated political party declaration with the security envelope into an outer mailing envelope.

(C) Process the ballots in the same manner as electronically returned ballots;

(c) Any other method approved by the secretary of state.

(3) The number of DRE votes must be reconciled with the number of signed declarations.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

WAC 434-219-230 Processing of ballots. (1) If the voter ~~((checked))~~ selected a political party declaration, a notation of the party ~~((checked))~~ selected must be made in the voter's registration file.

~~(2) ((If the declaration is not signed or the signature on the declaration does not match the signature on file, the county auditor must attempt to contact the voter as outlined in WAC 434-261-050. If the voter also failed to check a political party declaration, the county auditor must also provide the voter the opportunity to check a party declaration.)) If the voter fails to submit a marked and signed political party declaration on the return ballot envelope, the auditor shall send at least one notice by either mail or e-mail and advise the voter of the correct procedures for completing the declaration. If a voter submits a marked and signed political party declaration by the day before the primary is certified, the voter's ballot may be counted if all other requirements are met.~~

Exception: A political party selection on a federal write-in absentee ballot form substitutes for the political party declaration.

(3) The ballot must be sorted according to major party declaration choice before it is removed from the return envelope. Once the ballot is removed from the return envelope and secrecy envelope, it must be inspected and processed consistent with the party declaration.

~~((4) If the voter's signature is verified, the voter may be credited with having participated in the election, even if the voter failed to check a political party declaration.))~~

NEW SECTION

WAC 434-219-235 Statewide standards on what is a vote—Presidential primary. The following standards determine the validity of political party declarations on a presidential primary return envelope and ballot. All standards listed in WAC 434-261-086 apply to ballots.

(1) The first returned marked and signed political party declaration is the determining factor; only a vote on the ballot within the party the voter selected shall be counted. Ballots must be rejected by the county canvassing board for the following reasons:

(a) Political party declarations.

(i) The voter selects both political party declarations.

(ii) The voter fails to provide a marked and signed political party declaration by the day before certification of the primary.

(b) Ballots.

(i) The voter votes for a candidate on the ballot not matching the political party declaration.

(ii) The voter votes for candidates in more than one party.

(2) When the voter modifies a party name or wording of a selected political party declaration, the party checkbox is considered unmarked and the voter must be contacted per WAC 434-219-230. Such alterations may include:

(a) Modification of a party name or wording of a selected political party declaration.

(b) A strike through a party name or wording of a selected party declaration without also making another choice.

(3) When a voter makes a correction to a political party selection, the canvassing board shall consider the voter's intent.

(a) If the voter strikes through a party name or wording of a party declaration, it is considered a correction only when

the voter clearly selects another party declaration. Corrections may be resolved in the same manner as marks made on a ballot according to WAC 434-261-086 (1)(c), (d), and (e).

(b) If the voter does not mark inside a party checkbox, a mark or written instruction made outside the party checkbox may still indicate a choice when one declaration is clearly selected. Voter intent issues for marks made outside the party checkbox may be resolved in the same manner as marks made on a ballot according to WAC 434-261-086 (1)(b) and (e).

Exception: One mark that strikes through a party name or wording of the party declaration does not indicate a selection.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

WAC 434-219-290 Certification of presidential primary by secretary of state. County canvassing boards shall certify the results of the presidential primary ~~((fourteen))~~ ten days following the primary. The county auditor shall transmit the returns to the secretary of state immediately. Not later than ~~((twenty-one))~~ seventeen days following the presidential primary, the secretary of state shall certify the results of the presidential primary and notify the candidates and the chairperson of the national and state committees of each major political party of the votes cast for all candidates listed on the ballot.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-219-240 Canvassing consolidated ballots that include a party checkbox.

WAC 434-219-250 Canvassing separate party ballots and consolidated ballots that do not include a party checkbox.

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-230-015 Ballots and instructions. (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes if candidate races appear on the ballot.

(3) Instructions that accompany a ballot must:

(a) Instruct the voter how to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notify the voter that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Explain how to complete and sign the ballot declaration. The following declaration must accompany the ballot:

"I do solemnly swear or affirm under penalty of perjury that I am:

- A citizen of the United States;
- A legal resident of the state of Washington;
- At least 18 years old on election day;
- Voting only once in this election;
- Not under the authority of the Department of Corrections for a Washington felony conviction; and
- Not disqualified from voting due to a court order.

It is illegal to forge a signature or cast another person's ballot. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both."

The declaration must include space for the voter to sign and date the declaration, for the voter to write his or her phone number, and for two witnesses to sign if the voter is unable to sign.

~~((County auditors may use existing stock of declarations until December 31, 2014.))~~

- (d) Explain how to make a mark, witnessed by two other people, if unable to sign the declaration;
- (e) Explain how to place the ballot in the security envelope and place the security envelope in the return envelope;
- (f) Explain how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;
- (g) If applicable, explain that postage is required, or exactly how much postage is required. See WAC 434-250-200 on return postage;
- (h) Explain that, in order for the ballot to be counted, it must be either postmarked no later than election day or deposited at a ballot drop box no later than 8:00 p.m. election day;
- (i) Explain how to learn about the locations, hours, and services of voting centers and ballot drop boxes, including the availability of accessible voting equipment;
- (j) Include, for a primary election that includes a partisan office other than a presidential primary race, a notice on an insert explaining:

"In each race, you may vote for any candidate listed. The two candidates who receive the most votes in the primary will advance to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(k)(i) Include, for a general election that includes a partisan office, the following explanation:

"If a primary election was held for an office, the two candidates who received the most votes in the primary advanced to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice-president appear on the general election ballot, the following must be added to the statement required by (k)(i) of this subsection:

"The election for president and vice-president is different. Candidates for president and vice-president are the official nominees of their political party."

(4) Instructions that accompany a special absentee ballot authorized by RCW 29A.40.050 must also explain that the voter may request and subsequently vote a regular ballot, and that if the regular ballot is received by the county auditor, the regular ballot will be tabulated and the special absentee ballot will be voided.

(5) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

(6)(a) If the ballot includes a partisan office other than a presidential primary race, the ballot must include the following notice in bold print immediately above the first partisan congressional, state or county office: "READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(b) When the race for president and vice-president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice-president but immediately above the first partisan congressional, state or county office: "READ: Each candidate for president and vice-president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(c) The same notice may also be listed in the ballot instructions.

(7) Counties may use varying sizes and colors of ballots, provided such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate various types of ballots.

(8) Ballots shall be formatted as provided in RCW 29A.36.170.

(9) Removable stubs are not considered part of the ballot.

(10) If ballots are printed with sequential numbers or other sequential identifiers, the county auditor must take steps to prevent ballots from being issued sequentially, in order to protect secrecy of the ballot.

WSR 15-19-119

PROPOSED RULES

HEALTH CARE AUTHORITY

(Public Employees Benefits Board)

[Admin # 2015-01 Rev 1—Filed September 21, 2015, 9:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-080.

Title of Rule and Other Identifying Information: Public employees benefits board (PEBB) rules related to enrollment in chapter 182-08 WAC; eligibility in chapter 182-12 WAC; and appeals in chapter 182-16 WAC.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 28, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Amber Loughheed by October 23, 2015, by phone (360) 725-1309, e-mail amber.loughheed@hca.wa.gov, TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amends existing rules in Title 182 WAC specific to the PEBB program with the following effect:

1. Implement PEBB policy resolution to amend wellness incentive program requirements and TRICARE retiree waiver requirements.

2. Makes technical amendments to:

- Clarify that blind vendors have a sixty-day notification requirement after a loss of group health or health insurance under HIPAA.
- Clarify what "employer-based group medical insurance," "pay status," and "employee" means.
- Clarify that new employees must either "enroll or waive" coverage within thirty-one days of eligibility.
- Clarify within WAC 182-12-205 what conditions a retiring employee must meet in order to defer coverage, the timeline to defer retiree health plan coverage for both new and existing retirees, and when coverage ends for retiring employees who are deferring coverage.
- Amend the definition of "PEBB program" to remove the reference to "disabled employees."
- Amending WAC 182-12-171 to account for retiring employee issues.
- Clarify within WAC 182-12-123 the notification process between employers who employ the same employee and need to change who is paying the employer contribution.
- Clarify within WAC 182-08-235 that the employer group actuarial evaluation will be conducted by a PEBB program designated actuary.
- Clarify within WAC 182-16-073 what the PEBB program's rescheduling and continuance processes are.

- Amend WAC 182-08-245 (1)(e) to replace the words "health plans" with "insurance coverages."
- Amend WAC 182-08-240 to include a timeframe, for all group sizes, on how long an employer group evaluation is valid and that like populations will be evaluated against each other during the application process.
- Amend WAC 182-08-185 to account for surcharge changes and issues.
- Amend WAC 182-12-260(3) so it says that coverage for children ends on the last day of the month in which they turn twenty-six years old.
- Amend WAC 182-08-187 to account for additional error correction issues that have been identified.
- Amend WAC 182-12-211 to include the ability to "defer" and that the references to WAC 182-12-171 are correct.
- Clarify within WAC 182-12-262 (2)(c) when coverage ends for dependents.
- Amend WAC 182-12-133 and 182-12-146 to include deadlines for COBRA/LWOP continuation coverage that mirror those requirements for COBRA.
- Amend WAC 182-12-200 to integrate provisions of Policy 21-1 that deal with retiree deferral form exemptions.
- Amend WAC 182-16-036(1) so that it also includes eligibility for benefits and add the process flow for FSA appeals.
- Amend WAC 182-16-040 to determine what must be included versus what may be included in a notice of appeal.
- Amend WAC 182-12-260 to state the PEBB program requires dependent verification documents.
- Amend WAC 182-12-263 to remove "court orders."
- Amending WAC 182-08-199 (3)(c)(vi) to update the IRS references.
- Amending WAC 182-12-123 to clarify that eligibility as an employee supersedes eligibility as a dependent in most situations.
- Amend WAC 182-16-080 to correct reference links.

3. In addition to these specific changes, HCA conducted a full review of these chapters and made some changes for readability.

Reasons Supporting Proposal: Compliance with federal regulation, state law.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: SB 5466.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Rob Parkman, Cherry Street Plaza, 626 8th Avenue S.E., Olympia, WA, (360) 725-0883; Implementation: Barbara Scott, Cherry Street Plaza, 626 8th Avenue S.E., Olympia, WA, (360) 725-0830; and Enforcement: Mary Fliss, Cherry Street Plaza, 626 8th Avenue S.E., Olympia, WA, (360) 725-0822.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative rules review committee has not requested the filing of a small business economic impact statement, and there will be no costs to small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

September 21, 2015

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-08-015 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates other meaning:

"Affordable Care Act" means the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, P.L. 111-152, or federal regulations or guidance issued under the Affordable Care Act.

"Annual open enrollment" means an annual event set aside for a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections for the following plan year. Subscribers may transfer from one health plan to another, enroll or remove dependents from coverage, enroll in or waive enrollment in ~~((a))~~ PEBB medical ~~((plan))~~, or employees may enroll in or change their election under the DCAP, the medical FSA, or the premium payment plan.

"Authority" or "HCA" means the health care authority.

~~((Benefits-eligible position" means any position held by an employee who is eligible for benefits under WAC 182-12-114, with the exception of employees who establish eligibility under WAC 182-12-114 (2) or (3)(a)(ii).))~~

"Board" means the public employees benefits board established under provisions of RCW 41.05.055.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Continuation coverage" means the temporary continuation of PEBB health plan coverage available to enrollees after a qualifying event occurs as administered under Title XXII of the Public Health Service (PHS) Act, 42 U.S.C. Secs. 300bb-1 through 300bb-8.

"Creditable coverage" means coverage that meets the definition of "creditable coverage" under RCW 48.66.020 (13)(a) and includes payment of medical and hospital benefits.

"Defer" means to postpone enrollment or interrupt enrollment in a PEBB health plan by a retiree or eligible survivor.

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260, except that "surviving spouses, state registered domestic partners, and dependent children" of emergency service personnel who are killed in the line of duty is defined in WAC 182-12-250.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, e-mails, electronic files, or other printed or written items.

~~((Effective date of enrollment" means the first date when an enrollee is entitled to receive covered benefits.))~~
"Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021 (1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

"Employer-based group medical insurance" means group medical insurance coverage related to a current employment relationship. It does not include medical insurance coverage available to retired employees, individual market medical insurance coverage or government-sponsored programs such as medicare or medicaid.

"Employer group" means those ~~((employee organizations representing state civil service employees,))~~ counties,

municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, (~~charter schools, and~~) educational service districts (~~(participating in PEBB insurance coverage under contractual agreement)~~), and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority as described in WAC 182-08-245.

"Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; or a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Exchange" means the Washington health benefit exchange established in RCW 43.71.020, and any other health benefit exchange established under the Affordable Care Act.

"Exchange coverage" means coverage offered by a qualified health plan through an exchange.

"Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission; as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

~~("Federal retiree plan" means the Federal Employees' Health Benefits Program (FEHB) and Tricare.)~~

"Health plan" means a plan offering medical or dental, or both developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and the state board for community and technical colleges.

"Insurance coverage" means any health plan, life insurance, long-term care insurance, long-term disability (LTD) insurance, or property and casualty insurance administered as a PEBB benefit.

"Layoff," for purposes of this chapter, means a change in employment status due to an employer's lack of funds or an employer's organizational change.

~~("LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.)~~

"Life insurance" includes basic life insurance paid for by the employing agency, life insurance offered to employees on an optional basis, and retiree life insurance.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Mail" or "mailing" means placing a document in the United States Postal system, commercial delivery service, or Washington state consolidated mail services properly addressed.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"PEBB" means the public employees benefits board.

"PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB benefits by the PEBB program. The director has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.

"PEBB benefits" means one or more insurance coverages or other employee benefits administered by the PEBB program within the health care authority.

"PEBB program" means the program within the HCA (~~(which)~~ that administers insurance and other benefits for eligible employees (as ~~(defined)~~ described in WAC 182-12-114), eligible retired (~~and disabled~~) employees (as ~~(defined)~~ described in WAC 182-12-171), eligible dependents (as ~~(defined)~~ described in WAC 182-12-250 and 182-12-260) and others as defined in RCW 41.05.011.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's premium contribution, due to an enrollee's tobacco use or a subscriber's spouse or registered domestic partner choosing not to enroll in his or her employer-based group medical insurance when:

- Premiums are less than ninety-five percent of Uniform Medical Plan (UMP) Classic premiums; and
- The actuarial value of benefits is at least ninety-five percent of the actuarial value of UMP Classic benefits.

"Qualified health plan" means a medical plan that is certified to be offered through an exchange.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the DCAP, medical FSA, or premium payment plan as authorized in chapter 41.05 RCW.

"School district" means public schools as defined in RCW 28A.150.010 which includes charter schools established under chapter 28A.710 RCW.

"Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

"Special open enrollment" means a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections outside of the annual open enrollment period when specific life events occur. Subscribers may change health plans and enroll or remove dependents from coverage. Additionally, employees may enroll in or waive enrollment in ~~((a))~~ PEBB medical ~~((plan))~~, and may enroll in or change their election under the DCAP, medical FSA, or the premium payment plan. For special open enroll-

ment events as they relate to specific PEBB benefits, see WAC 182-08-198, 182-08-199, 182-12-128, and 182-12-262.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"Subscriber" means the employee, retiree, COBRA beneficiary, or eligible survivor who has been designated by the HCA as the individual to whom the HCA and contracted vendors will issue all notices, information, requests and premium bills on behalf of enrollees.

~~("Termination of the employment relationship" means that an employee resigns or an employee is terminated and the employing agency has no anticipation that the employee will be rehired.)~~

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, chewing tobacco, snuff, and other tobacco products. It does not include United States Food and Drug Administration (FDA) approved quit aids or e-cigarettes until their tobacco related status is determined by the FDA.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

"Waive" means to interrupt an eligible employee's enrollment in a PEBB health plan because the employee is enrolled in other employer-based group medical insurance, TRICARE, or medicare as allowed under WAC 182-12-128, or is on approved educational leave and obtains other employer-based group health insurance as allowed under WAC 182-12-136.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-08-185 What are the requirements regarding premium surcharges? (1) A subscriber's account will incur a premium surcharge when any enrollee, thirteen years and older, engages in tobacco use.

(a) A subscriber must attest to whether any enrollee ~~((on))~~, thirteen years and older, enrolled in his or her public employees benefits board (PEBB) medical ((plan)) engages in tobacco use. The subscriber must attest ~~((during the following times))~~ as described in (a)(i) through (vii) of this subsection:

(i) ~~((When))~~ An employee who is newly eligible or regains eligibility for the employer contribution toward PEBB benefits ((submits an enrollment)) must complete the required form to ((add)) enroll in PEBB medical as described

in WAC 182-08-197 (1) or (3). The employee must include his or her attestation on that form. The employee must submit the attestation to his or her employing agency. If the employee's attestation results in a premium surcharge, it will take effect the same ((time)) date as PEBB medical begins((:)).

(ii) ~~((When))~~ If there is a change in the tobacco use status of any enrollee, thirteen years and older on the subscriber's PEBB medical ((plan. If the change in status results in a surcharge being added or removed, the change to the surcharge will take effect the first day of the month following receipt of the attestation. If that day is the first of the month, the change to the surcharge begins on that day;)), the subscriber must update his or her attestation on the required form. An employee must submit the updated attestation to his or her employing agency. Any other subscriber must submit his or her updated attestation to the PEBB program.

• A change that results in a premium surcharge will begin the first day of the month following the status change. If that day is the first of the month, the change to the surcharge begins on that day.

• A change that results in removing the premium surcharge will begin the first day of the month following receipt of the attestation. If that day is the first of the month, the change to the surcharge begins on that day.

(iii) ~~((When))~~ If a subscriber submits ((an enrollment)) the required form to ((add)) enroll a dependent ((to his or her)), thirteen years and older, in PEBB medical as described in WAC 182-12-262((-If enrolling the dependent)), the subscriber must update his or her attestation on the required form. An employee must submit the updated attestation to his or her employing agency. Any other subscriber must submit his or her updated attestation to the PEBB program. A change that results in a premium surcharge ((being added, it)) will take effect the same ((time)) date as PEBB medical begins((:)).

(iv) ~~((When))~~ An enrollee, thirteen years and older, who elects to continue ((health plan)) medical coverage as described in WAC 182-12-146((-If the attestation results in a surcharge it)), must provide an attestation on the required form if he or she has not previously attested as described in (a) of this subsection. The enrollee must submit his or her updated attestation to the PEBB program. An attestation that results in a premium surcharge will take effect the same ((time)) date as PEBB medical begins. ((This action is required only if the enrollee has not previously attested as described in (a) of this subsection;))

(v) ~~((When))~~ An employee or retiree ((submits an enrollment form to)) who enrolls in PEBB medical as described in WAC 182-12-171 (1)(a), 182-12-200 ((2)) (3)(a) and (b), or 182-12-205 ((4)) (6)(a), (b), (c), (d), and ((4- If the)) (e) must provide an attestation on the required form if he or she has not previously attested as described in (a) of this subsection. The employee or retiree must submit his or her updated attestation to the PEBB program. An attestation that results in a premium surcharge ((#)) will take effect the same ((time)) date as PEBB medical begins. ((This action is required only if the retiree has not previously attested as described in (a) of this subsection; and))

(vi) ~~((When a survivor))~~ A surviving spouse, registered domestic partner, or dependent child ((submits an enrollment form to enroll)), thirteen years and older, who enrolls in PEBB medical as described in WAC 182-12-250(5) or 182-12-265((-If the)), must provide an attestation on the required form to the PEBB program if he or she has not previously attested as described in (a) of this subsection. An attestation that results in a premium surcharge ((#)) will take effect the same ((time)) date as PEBB medical begins. ((This action is required only if the survivor has not previously attested as described in (a) of this subsection.))

(vii) An employee who previously waived PEBB medical must complete the required form to enroll in PEBB medical as described in WAC 182-12-128(3). The employee must include his or her attestation on that form. An employee must submit the attestation to his or her employing agency. An attestation that results in a premium surcharge will take effect the same date as PEBB medical begins.

Exception:

- (1) A subscriber enrolled in both medicare parts A and B and in the medicare risk pool is not required to provide an attestation and no premium surcharge will be imposed on the subscriber's account.
- (2) An employee who waives PEBB medical ((enrollment)) according to WAC 182-12-128 is not required to provide an attestation and no premium surcharge will be applied to his or her account ((until the employee enrolls in a PEBB medical plan)) as long as the employee enrollment remains in waived status.

(b) A subscriber's account will incur a premium surcharge when a subscriber fails to attest to the tobacco use status of all enrollees as described in subsection (1)(a) of this section.

(c) The PEBB program will provide a reasonable alternative for enrollees who use tobacco products ~~((see a))~~. A subscriber can avoid the tobacco use premium surcharge if the subscriber attests on the required form that all enrollees who use tobacco products enrolled in or accessed the applicable reasonable alternative offered below:

(i) ~~((All enrollees have))~~ An enrollee who is eighteen years and older and uses tobacco products has access to a free tobacco cessation program through ((their)) his or her PEBB medical ((plan. A subscriber can avoid the surcharge if enrollees who use tobacco products are enrolled in their plan's tobacco cessation program)).

(ii) An enrollee who is thirteen through seventeen years old and uses tobacco products may access the information and resources aimed at teens on the Washington state department of health's web site at <http://teen.smokefree.gov>.

(iii) A subscriber may contact the PEBB program to accommodate a physician's recommendation that addresses an enrollee's use of tobacco products or for information on how to avoid the tobacco use premium surcharge.

(2) A ~~((subscriber's account))~~ subscriber will incur a premium surcharge if an enrolled spouse or registered domestic partner ~~((whose))~~ elected not to enroll in employer-based group medical insurance that has premiums less than ninety-five percent of the Uniform Medical Plan (UMP) Classic's premiums and benefits with an actuarial value of at least ninety-five percent of the actuarial value of the UMP Classic's benefits.

(a) A subscriber ~~((with))~~ who enrolled a spouse or registered domestic partner ~~((enrolled))~~ under his or her PEBB medical ~~((must))~~ may only attest during the following times:

(i) ~~When ((an employee who is newly eligible or regains eligibility for the employer contribution toward PEBB benefits submits an enrollment form to add PEBB medical as described in WAC 182-08-197 (1) or (3).))~~ a subscriber becomes eligible to enroll a spouse or registered domestic partner in PEBB medical as described in WAC 182-12-262 (1)(a). A subscriber must complete the required form to enroll his or her spouse or registered domestic partner. The subscriber must include his or her attestation on that form. The employee must submit the attestation to his or her employing agency. Any other subscriber must submit an attestation to the PEBB program. If the subscriber's attestation results in a premium surcharge it will take effect the same ((time)) date as PEBB medical begins;

(ii) When a special open enrollment (SOE) event occurs as described in WAC 182-12-262 (1)(c). A subscriber must submit((s an enrollment)) the required form to ((add)) enroll a spouse or registered domestic partner ((to his or her)) in PEBB medical ((as described in WAC 182-12-262. If enrolling the spouse or registered domestic partner)). The subscriber must include his or her updated attestation on that form. An employee must submit an updated attestation to his or her employing agency. Any other subscriber must submit an updated attestation to the PEBB program. If the subscriber's attestation results in a premium surcharge ((being added, the surcharge)) it will take effect the first day of the month following receipt of the attestation. If that day is the first day of the month, the change to the surcharge begins on that day;

(iii) During the annual open enrollment. ((If attesting)) A subscriber must attest if during the month prior to the annual open enrollment the subscriber was:

- Incurring the surcharge;
- Not incurring the surcharge because the spouse's or registered domestic partner's share of the medical premium through his or her employer-based group medical insurance was more than ninety-five percent of the UMP Classic's premiums; or
- Not incurring the surcharge because the actuarial value of benefits provided through the spouse's or registered domestic partner's employer-based group medical insurance was less than ninety-five percent of the UMP Classic's actuarial value.

A subscriber must update his or her attestation on the required form. An employee must submit an updated attestation to his or her employing agency. Any other subscriber must submit an updated attestation to the PEBB program. The subscriber's attestation or any correction to a subscriber's attestation must be received no later than December 31st of the year in which the annual open enrollment occurs. If the subscriber's attestation results in a premium surcharge, being added or removed, the change to the surcharge ((begins)) will take effect January 1st of the following year; and

(iv) When there is a change in the spouse's or registered domestic partner's employer-based group medical insurance. ((If attesting results in a surcharge being added or removed, the change to the surcharge will take effect the first day of the

~~month following receipt of the attestation. If that day is the first of the month, the change to the surcharge begins on that day.)~~ An employee must submit an updated attestation to his or her employing agency within sixty days of when the spouse's or registered domestic partner's employer-based group medical insurance status changes. Any other subscriber must submit an updated attestation to the PEBB program no later than sixty days after the spouse's or registered domestic partner's employer-based group medical insurance changes.

• A change that results in a premium surcharge will begin the first day of the month following the status change. If that day is the first day of the month, the change to the premium surcharge begins on that day.

• A change that results in removing the premium surcharge will begin the first day of the month following receipt of the attestation. If that day is the first day of the month, the change to the premium surcharge begins on that day.

- Exception:
- (1) A subscriber enrolled in both medicare parts A and B and in the medicare risk pool is not required to provide an attestation and no premium surcharge will be imposed on the subscriber's account.
 - (2) An employee who waives PEBB medical (~~(enrollment)~~) according to WAC 182-12-128 is not required to provide an attestation and no premium surcharge will be applied to his or her account (~~(until the employee enrolls in a PEBB medical plan)~~) as long as the employee remains in waived status.
 - (3) An employee who covers his or her spouse or registered domestic partner who has waived his or her own PEBB medical must attest, but a premium surcharge will not be applied.
 - (4) A subscriber who covers his or her spouse or registered domestic partner who elected not to enroll in TRICARE must attest, but a premium surcharge will not be applied.

(b) A premium surcharge will be applied to (~~the account of~~) a subscriber(s) who (~~do~~) does not attest as described in (a) of this subsection.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-08-187 How do employing agencies correct enrollment errors and is there a limit on retroactive enrollment? (~~(H)~~) An employing agency that fails to timely enroll an employee, or his or her dependent, in public employees benefits board (PEBB) benefits must correct the error as described in this section. An agency must correct a failure to notify an employee timely of his or her eligibility for (~~public employees benefits board~~) PEBB(~~(s)~~) benefits and the employer contribution (~~(as required in WAC 182-12-113 or the employer group contract, or fails)~~); or a failure to accurately enroll insurance coverage(~~(, the agency is authorized and required to correct the error as described in this section)~~); or a failure to accurately enroll insurance coverage as required by WAC 182-08-197 (1)(b); or a failure to accurately reflect premium surcharge status.

The employing agency or the PEBB program's designee must enroll the employee and the employee's dependent, as elected, in PEBB benefits as described in subsection (1) of

this section, reconcile premium payments and premium surcharges as described in subsection (2) of this section, and provide recourse as described in subsection (3) of this section.

Note: If the employing agency failed to provide the notice required in WAC 182-12-113 or the employer group contract before the end of the employee's thirty-one day enrollment period described in WAC 182-08-197 (1)(a), the employing agency must provide the employee a written notice of eligibility for PEBB benefits and offer a new enrollment period. Employees who do not return the required enrollment forms default to enrollment according to WAC 182-08-197 (1)(b).

(1) Enrollment.

(a) PEBB medical and dental enrollment is effective the first day of the month following the date the enrollment error is identified, unless the authority determines additional recourse is warranted, as described in subsection (3) of this section. If the enrollment error is identified on the first day of the month, the enrollment correction is effective that day;

(b) Basic life and basic long-term disability (LTD) insurance enrollment is retroactive to the first day of the month following the day the employee became newly eligible, or the first day of the month the employee regained eligibility, as described in WAC 182-08-197. If the employee became newly eligible on the first working day of a month, basic life and basic LTD insurance coverage begins on that date;

(c) Optional life and optional LTD insurance is retroactive to the first day of the month following the day the employee became newly eligible if the employee elects to enroll in this coverage (or if previously elected, the first of the month following the signature date of the employee's application for this coverage). If an employing agency enrollment error occurred when the employee regained eligibility for the employer contribution following a period of leave as described in WAC 182-08-197(3):

(i) Optional insurance coverage is enrolled the first day of the month the employee regained eligibility, at the same level of coverage the employee continued during the period of leave, without evidence of insurability.

(ii) If the employee was not eligible to continue optional LTD insurance coverage during the period of leave, optional LTD insurance coverage is reinstated the first day of the month the employee regained eligibility, to the level of coverage the employee was enrolled in prior to the period of leave, without evidence of insurability.

(iii) If the employee was eligible to continue optional insurance coverage under the period of leave but did not, the employee must provide evidence of insurability and receive approval from the contracted vendor.

(d) If the employee is eligible and elects (or elected) to enroll in the medical flexible spending (~~(account)~~) arrangement (FSA) or dependent care assistance program (DCAP), enrollment is limited to three months prior to the date enrollment is processed, but not earlier than the current plan year. If an employee was not enrolled in an FSA or DCAP as elected, the employee may adjust his or her election. The employee may either participate at the amount originally elected with a corresponding increase in contributions for the balance of the plan year, or participate at a reduced amount

for the plan year by maintaining the per-pay period contribution in effect.

(2) **Premium payments.**

(a) The employing agency must remit to the authority the employer contribution and the employee contribution for health plan premiums, premium surcharges, basic life, and basic LTD from the date insurance coverage begins as described in subsections (1) and (3)(a)(i) of this section. If a state agency failed to notify a newly eligible employee of his or her eligibility for PEBB benefits, the state agency may only collect the employee contribution for health plan premiums and premium surcharges for coverage for months following notification of a new enrollment period.

(b) When an employing agency fails to correctly enroll the amount of optional life insurance or optional LTD insurance coverage elected by the employee, premiums will be corrected as follows:

(i) When additional premiums are due to the authority, the employee is responsible for premiums for the most recent twenty-four months of coverage. The employing agency is responsible for additional months of premiums.

(ii) When premium refunds are due to the employee, the optional life insurance or optional LTD insurance vendor is responsible for premium refunds for the most recent twenty-four months of coverage. The employing agency is responsible for additional months of premium refunds.

(3) **Recourse.**

(a) Employee eligibility for PEBB benefits begins on the first day of the month following the date eligibility is established as described in WAC 182-12-114. Dependent eligibility is described in WAC 182-12-260, and dependent enrollment is described in WAC 182-12-262. When retroactive correction of an enrollment error is limited as described in subsection (1) of this section, the employing agency must work with the employee, and the authority, to implement retroactive insurance coverage within the following parameters:

(i) Retroactive enrollment in a PEBB health plan;
 (ii) Reimbursement of claims paid;
 (iii) Reimbursement of amounts paid for medical and dental premiums; or

(iv) Other recourse, upon approval by the authority.

(b) Recourse must not contradict a specific provision of federal law or statute and does not apply to requests for non-covered services or in the case of an individual who is not eligible for PEBB benefits.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-08-190 The employer contribution is set by the health care authority (HCA) and paid to the HCA for all eligible employees. State agencies and employer groups that participate in the public employees benefits board (PEBB) program under contract with the health care authority (HCA) must pay premium contributions to the HCA for insurance coverage for all eligible employees and their dependents.

(1) Employer contributions for state agencies set by the HCA are subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for

that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(2) Employer contributions must include an amount determined by the HCA to pay administrative costs to administer insurance coverage for employees of these groups.

(3) Each employee of a state agency eligible under WAC 182-12-131 or each eligible employee of a state agency on leave under the federal Family and Medical Leave Act (FMLA) is eligible for the employer contribution as described in WAC 182-12-138. The entire employer contribution is due and payable to HCA even if PEBB medical is waived as described in WAC 182-12-128.

(4) Employees of employer groups eligible under criteria stipulated under contract with the HCA are eligible for the employer contribution. The entire employer contribution is due and payable to the HCA even if PEBB medical is waived as described in WAC 182-12-128.

(5) Washington state patrol officers disabled while performing their duties as determined by the chief of the Washington state patrol are eligible for the employer contribution for PEBB medical (~~(insurance)~~) as authorized in RCW 43.43.040. No other retiree or disabled employee is eligible for the employer contribution for PEBB benefits unless they are an eligible employee as (~~(defined)~~) described in WAC 182-12-114 or 182-12-131.

(6) The terms of payment to HCA for employer groups shall be stipulated under contract with the HCA.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-08-197 When must a newly eligible employee, or an employee who regains eligibility for the employer contribution, select public employees benefits board (PEBB) benefits and complete (~~(enrollment)~~) required forms? An employee who is newly eligible or who regains eligibility for the employer contribution toward public employees benefits board (PEBB) benefits enrolls as described in this section.

(1) When an employee is newly eligible for PEBB benefits:

(a) An employee must complete the required forms indicating his or her enrollment elections (~~(and return the forms to his or her)~~), including an election to waive PEBB medical if the employee chooses to waive PEBB medical as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency. Forms must be received by (~~(the))~~ his or her employing agency no later than thirty-one days (sixty days for life insurance) after the employee becomes eligible for PEBB benefits under WAC 182-12-114.

(i) An employee may enroll in optional life and optional long-term disability (LTD) insurance up to the guaranteed issue without evidence of insurability if (~~(enrollment))~~ the required forms are returned to the employee's employing agency as required. An employee may apply for enrollment in optional life and LTD insurance coverage over the guaranteed issue at any time during the calendar year by submitting the (~~(evidence of insurability))~~ required form to the vendor for approval.

(ii) If an employee is eligible to participate in the state's salary reduction plan (see WAC 182-12-116) the employee will automatically enroll in the premium payment plan upon enrollment in PEBB medical so employee medical premiums are taken on a pretax basis. To opt out of the premium payment plan, a new employee must complete the required form and return it to his or her state agency. The form must be received by his or her state agency no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(iii) If an employee is eligible to participate in the state's salary reduction plan (see WAC 182-12-116) the employee may enroll in the state's medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP) or both, except as limited by subsection (4) of this section. To enroll in these optional PEBB benefits, the employee must return the required ~~((enrollment))~~ form to his or her state agency or the PEBB program's designee. The form must be received by the state agency or the PEBB program's designee no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(b) If a newly eligible employee's employing agency does not receive the employee's required forms indicating medical, dental, and LTD ~~((choice))~~ elections and the employee's tobacco use status attestation within thirty-one days and life insurance ~~((choice))~~ elections within sixty days of the employee becoming eligible, his or her ~~((coverage))~~ enrollment will be ~~((enrolled))~~ as follows:

- (i) ~~((Medical enrollment will be))~~ Uniform Medical Plan Classic;
- (ii) ~~((Dental enrollment will be))~~ Uniform Dental Plan;
- (iii) Basic life insurance;
- (iv) Basic long-term disability insurance; ~~((and))~~
- (v) Dependents will not be enrolled; and
- (vi) A tobacco use surcharge will be incurred as described in WAC 182-08-185 (1)(b).

(2) The employer contribution toward insurance coverage ends according to WAC 182-12-131. When an employee's employment ends, participation in the state's salary reduction plan ends.

(3) When an employee loses and later regains eligibility for the employer contribution toward insurance coverage following a period of leave described in WAC 182-12-133(1) and 182-12-142 (1) and (2):

(a) The employee must complete ~~((and return))~~ the required forms indicating his or her enrollment elections ~~((to his or her))~~, including an election to waive PEBB medical if the employee chooses to waive PEBB medical as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency except as described in (d) of this subsection. Forms must be received by the employing agency no later than thirty-one days after the employee regains eligibility, except as described in subsection (3)(b) of this section:

- (i) An employee who self-paid for optional life insurance coverage after losing eligibility will have that level of coverage reinstated without evidence of insurability;
- (ii) An employee who was eligible to continue optional life under continuation coverage but discontinued that insurance coverage must submit evidence of insurability;

(ii) An employee who was eligible to continue optional LTD under continuation coverage but discontinued that insurance coverage must submit evidence of insurability for optional LTD insurance when he or she regains eligibility for the employer contribution.

(b) An employee in any of the following circumstances does not have to return ~~((an))~~ a form indicating optional LTD insurance elections ~~((form))~~. His or her optional LTD insurance will be automatically reinstated:

(i) The employee continued to self-pay for his or her optional LTD insurance after losing eligibility for the employer contribution;

(ii) The employee was not eligible to continue optional LTD insurance after losing eligibility for the employer contribution.

~~((Exception: An employee's insurance coverage elections remain the same when an employee transfers from one employing agency to another employing agency without a break in PEBB coverage. This includes movement of employees between any entities described in WAC 182-12-111 and participating in PEBB benefits. Insurance coverage elections also remain the same when employees have a break in employment that does not interrupt his or her employer contribution toward PEBB insurance coverage.))~~

(c) If an employee's employing agency does not receive the required forms within thirty-one days of the employee regaining eligibility, medical, dental, life, tobacco use surcharge, and LTD enrollment will be as described in subsection (1)(b) of this section, except as described in (b) of this subsection.

(d) If an employee is eligible to participate in the state's salary reduction plan (see WAC 182-12-116) the employee may enroll in the state's medical FSA or DCAP or both, except as limited by subsection (4) of this section. To enroll in these optional PEBB benefits, the employee must return the required ~~((enrollment))~~ form to his or her state agency or the PEBB program's designee. The form must be received by the employee's state agency or the PEBB program's designee no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(4) If an employee who is eligible to participate in the state's salary reduction plan (see WAC 182-12-116) is hired into a new position that is eligible for PEBB benefits in the same year, the employee may not resume participation in DCAP or medical FSA until the beginning of the next plan year, unless the time between employments is less than thirty days and the employee notifies the new state agency and the DCAP or FSA administrator of his or her employment transfer within the current plan year.

(5) An employee's insurance coverage elections remain the same when an employee transfers from one employing agency to another employing agency without a break in PEBB coverage. This includes movement of an employee between any entities described in WAC 182-12-111 and participating in PEBB benefits. Insurance coverage elections also remain the same when an employee has a break in employment that does not interrupt his or her employer contribution toward insurance coverage.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-08-199 When may an employee enroll in or change his or her election under the premium payment plan, medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP)? An employee who is eligible to participate in the state's salary reduction plan as described in WAC 182-12-116 may enroll in or change his or her election under the premium payment plan, medical flexible spending arrangement (FSA), or dependent care assistance program (DCAP) at the following times:

(1) When newly eligible under WAC 182-12-114, as described in WAC 182-08-197(1).

(2) **During annual open enrollment:** An eligible employee may enroll in or change his or her election under the state's premium payment plan, medical FSA or DCAP during the annual open enrollment. For the state's premium payment plan, the required (~~enrollment~~) form must be submitted to his or her employing agency. To enroll or reenroll in medical FSA or DCAP the employee must submit the required (~~enrollment~~) form to his or her employing agency or the public employees benefits board (PEBB) program's designee. All required forms must be received no later than the last day of the annual open enrollment. The enrollment or new election will be effective January 1st of the following year.

(3) **During a special open enrollment:** An employee may enroll or change his or her election under the state's premium payment plan, medical FSA or DCAP outside of the annual open enrollment if a special open enrollment event occurs. The enrollment or change in election must be allowable under Internal Revenue Code (IRC) and correspond to and be consistent with the event that creates the special open enrollment. To make a change or enroll, the employee must submit the required (~~enrollment~~) forms as instructed on the forms. The required (~~enrollment~~) forms must be received no later than sixty days after the event occurs. The employee must provide evidence of the event that created the special open enrollment.

For purposes of this section, an eligible dependent includes any person who qualifies as a dependent of the employee for tax purposes under IRC Section 152 without regard to the income limitations of that section. It does not include a registered domestic partner unless the domestic partner otherwise qualifies as a dependent for tax purposes under IRC Section 152.

(a) **Premium payment plan.** An employee may enroll or change his or her election under the premium payment plan when any of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or change in election will be effective the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a domestic partnership when the dependent is a tax dependent of the subscriber;
- Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;
- A child becoming eligible as an extended dependent through legal custody or legal guardianship; or
- A child becoming eligible as a dependent with a disability(~~(s)~~).

(ii) Employee's dependent no longer meets PEBB eligibility criteria because:

- Employee has a change in marital status;
- Employee's domestic partnership with a registered domestic partner who is a tax dependent is dissolved or terminated;
- An eligible dependent child turns age twenty-six or otherwise does not meet dependent child eligibility criteria;
- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or
- An eligible dependent dies.

(iii) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(iv) Employee or an employee's dependent has a change in employment status that affects the employee's or a dependent's eligibility for their employer contribution toward employer-based group health insurance;

(v) Employee or an employee's dependent has a change in enrollment under another employer-based group health insurance plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(vi) Employee or an employee's dependent has a change in residence that affects health plan availability;

(vii) Employee's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States;

(viii) A court order or national medical support notice (see also WAC 182-12-263) requires the employee or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former registered domestic partner is not an eligible dependent);

(ix) Employee or an employee's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(x) Employee or an employee's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or a state children's health insurance program (CHIP);

(xi) Employee or an employee's dependent becomes entitled to coverage under medicare, or the employee or an employee's dependent loses eligibility for coverage under medicare, or enrolls in or (~~enrolls~~) terminates enrollment in a medicare Part D plan;

(xii) Employee or an employee's dependent's current health plan becomes unavailable because the employee or enrolled dependent is no longer eligible for a health savings account (HSA). The health care authority (HCA) may require evidence that the employee or employee's dependent is no longer eligible for an HSA;

(xiii) Employee or an employee's dependent experiences a disruption of care that could function as a reduction in benefits for the employee or the employee's dependent for a specific condition or ongoing course of treatment. The employee may not change their health plan election if the employee's or dependent's physician stops participation with the employee's health plan unless the PEBB program determines that a continuity of care issue exists. The PEBB program will consider but not limit its consideration to the following:

- Active cancer treatment such as chemotherapy or radiation therapy for up to ninety days or until medically stable; or
- Transplant within the last twelve months; or
- Scheduled surgery within the next sixty days (elective procedures within the next sixty days do not qualify for continuity of care); or
- Recent major surgery still within the postoperative period of up to eight weeks; or
- Third trimester of pregnancy.

(xiv) Employee or employee's dependent becomes eligible and enrolls in TRICARE, or loses eligibility for TRICARE.

If the employee is having premiums taken from payroll on a pretax basis, a plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

(b) **Medical flexible spending ((~~account~~) arrangement (FSA)).** An employee may enroll or change his or her election under the medical FSA when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or change in election will be effective the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a domestic partnership if the domestic partner qualifies as a tax dependent of the subscriber;
- Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;
- A child becoming eligible as an extended dependent through legal custody or legal guardianship; or
- A child becoming eligible as a dependent with a disability.

(ii) Employee's dependent no longer meets PEBB eligibility criteria because:

- Employee has a change in marital status;

- Employee's domestic partnership with a registered domestic partner who qualifies as a tax dependent is dissolved or terminated;

- An eligible dependent child turns age twenty-six or otherwise does not meet dependent child eligibility criteria;
- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or
- An eligible dependent dies.

(iii) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(iv) Employee or an employee's dependent has a change in employment status that affects the employee's or a dependent's eligibility for the FSA;

(v) A court order or national medical support notice requires the employee or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former registered domestic partner is not an eligible dependent);

(vi) Employee or an employee's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the employee or an employee's dependent loses eligibility for coverage under medicaid or CHIP;

(vii) Employee or an employee's dependent becomes entitled to coverage under medicare.

(c) **Dependent care assistance program (DCAP).** An employee may enroll or change his or her election under the DCAP when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or change in election will be effective the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a domestic partnership if the domestic partner qualifies as a tax dependent of the subscriber;
- Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;
- A child becoming eligible as an extended dependent through legal custody or legal guardianship; or
- A child becoming eligible as a dependent with a disability.

(ii) Employee or an employee's dependent has a change in employment status that affects the employee's or a dependent's eligibility for DCAP;

(iii) Employee or an employee's dependent has a change in enrollment under another employer-based group health insurance plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(iv) Employee changes dependent care provider; the change to DCAP can reflect the cost of the new provider;

(v) Employee or the employee's spouse experiences a change in the number of qualifying individuals as defined in IRC Section 21 (b)(1);

(vi) Employee's dependent care provider imposes a change in the cost of dependent care; employee may make a change in the DCAP to reflect the new cost if the dependent care provider is not a qualifying relative of the employee as defined in Internal Revenue Code Section 152 ~~((d)(1) through (5), incorporating the rules of Section 152 (b)(1) through (3) of the IRC)~~.

AMENDATORY SECTION (Amending WSR 07-20-129, filed 10/3/07, effective 11/3/07)

WAC 182-08-220 Advertising or promotion of public employees benefits board (PEBB) benefit plans. (1) In order to assure equal and unbiased representation of public employees benefits board (PEBB) benefits, contracted vendors must comply with all of the following:

(a) All materials describing PEBB benefits must be prepared by or approved by the health care authority (HCA) before use.

(b) Distribution or mailing of all benefit descriptions must be performed by or under the direction of the HCA.

(c) All media announcements or advertising by a contracted vendor which include any mention of the "public employees benefits board," "PEBB," "health care authority," ~~((or))~~ "HCA," any reference to benefits for "state employees," or "retirees," or any group of employees covered by PEBB benefits, must receive the advance written approval of the HCA.

(2) Failure to comply with any or all of these requirements by a PEBB contracted vendor or subcontractor may result in contract termination by the HCA, refusal to continue or renew a contract with the noncomplying party, or both.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-08-235 Employer group application process. This section applies to employer groups as defined in WAC 182-08-015. An employer group may apply to obtain insurance coverage through a contract with the health care authority (HCA). With the exception of school districts and educational service districts, the authority will approve or deny applications through the evaluation criteria described in WAC 182-08-240. To apply, employer groups must submit the documents and information described in this rule to the public employees benefits board (PEBB) program at least sixty days before the requested coverage effective date. School districts and educational service districts are only required to provide the documents described in subsections (1), (2), and (3) of this section. If school districts or educational service districts are required by the superintendent of public instruction to purchase insurance coverage provided by the authority, they are required to submit documents and information described in subsections (1)(c), (2), and (3) of this section.

(1) A letter of application that includes the information described in (a) through (d) of this subsection:

(a) A reference to the employer group's authorizing statute;

(b) A description of the organizational structure of the employer group and a description of the employee bargaining ~~((unit(s)))~~ unit or group of nonrepresented employees for which the employer group is applying;

(c) Employer tax ID number (TIN); and

(d) A statement of whether the employer group is requesting only medical or medical, dental, life, and long-term disability (LTD) insurance. School districts and educational service districts must purchase medical, dental, life, and LTD insurance.

(2) A resolution from the employer group's governing body authorizing the purchase of PEBB insurance coverage.

(3) A signed governmental function attestation document that attests to the fact that employees for whom the employer group is applying are governmental employees whose services are substantially all in the performance of essential governmental functions.

(4) A member level census file for all of the employees for whom the employer group is applying. The file must be provided in the format required by the authority and contain the following demographic data, by member, with each member classified as employee, spouse or registered domestic partner, or child:

(a) Employee ID (any identifier which uniquely identifies the employee; for dependents the employee's unique identifier must be used);

(b) Age;

(c) Gender;

(d) First three digits of the member's zip code based on residence;

(e) Indicator of whether the employee is active or retired, if the employer group is requesting to include retirees; and

(f) Indicator of whether the member is enrolled in coverage.

(5) If the application is for a subset of the employer group's employees (e.g., bargaining unit), the employer group must provide a member level census file of all employees eligible under their current health plan who are not included on the member level census file in subsection (4) of this section. This includes retired employees participating under the employer group's current health plan. The file must include the same demographic data by member.

(6) In addition to the requirements of subsections (1) through (5) of this section, additional information is required based upon the total number of employees that the employer group employs who are eligible under their current health plan:

(a) Employer groups with fewer than eleven eligible employees must provide proof of current coverage or proof of prior coverage within the last twelve months.

(b) Employer groups with three hundred one to two thousand five hundred eligible employees must provide the following:

(i) Large claims history for twenty-four months, by quarter that excludes the most recent three months; and

(ii) Ongoing large claims management report for the most recent quarter provided in the large claims history.

(c) Employer groups with greater than two thousand five hundred eligible employees must submit to an actuarial evaluation of the group by an actuary designated by the PEBB program. The employer group must pay for the cost of the evaluation. This cost is nonrefundable. An employer group that is approved will not have to pay for an additional actuarial evaluation if it applies to add another bargaining unit within two years of the evaluation. Employer groups of this size must provide the following:

- (i) Large claims history for twenty-four months, by quarter that excludes the most recent three months;
 - (ii) Ongoing large claims management report for the most recent quarter provided in the large claims history;
 - (iii) Executive summary of benefits;
 - (iv) Summary of benefits and certificate of coverage; and
 - (v) Summary of historical plan costs.
- (d) The following definitions apply for purposes of this section:

(i) "Large claim" is defined as a member that received more than twenty-five thousand dollars in allowed cost for services in a quarter; and

(ii) An "ongoing large claim" is a claim where the patient is expected to need ongoing case management into the next quarter for which the expected allowed cost is greater than twenty-five thousand dollars in the quarter.

(e) If the current health plan does not have a case management program then the primary diagnosis code designated by the authority must be reported for each large claimant and if the code indicates a condition which is expected to continue into the next quarter, the claim is counted as an ongoing large claim.

AMENDATORY SECTION (Amending WSR 13-22-019, filed 10/28/13, effective 1/1/14)

WAC 182-08-240 How will the health care authority (HCA) decide to approve or deny an employer group application? Employer group applications for participation in insurance coverage provided through the public employees benefits board (PEBB) program are approved or denied by the health care authority (HCA) based upon the information and documents submitted by the employer group and the employer group evaluation (EGE) criteria described in this rule. The authority may automatically deny an employer group application if the employer group fails to provide the required information and documents described in WAC 182-08-235.

(1) Employer groups are evaluated as a single unit. To support this requirement the employer group must provide a census ~~((data))~~ file, as described in WAC 182-08-235 (1) through (5), and additional information as described in WAC 182-08-235(6) for all employees eligible to participate under the employer group's current health plan. ~~((This includes retired employees participating under the employer group's current health plan.))~~ If the employer group's application is for both employees and retirees, the census file data and additional information for retired employees participating under the employer group's current health plan must also be included.

(a) If the employer group's application is only for participation of its employees, the PEBB enrollment data used to evaluate the employer group will be state agency employee data.

(b) If an employer group's application is for participation of both its employees and retirees, the PEBB enrollment data used to evaluate the employer group will include data from the PEBB nonmedicare risk pool which includes retiree enrollment data and state agency employee data.

(2) An employer group must pass the EGE criteria or the actuarial evaluation required in subsection (3) of this section as a single unit before the application can be approved. For purposes of this section a single unit includes all employees eligible under the employer group's current health plan. If the application is only for a bargaining unit, then the bargaining unit must be evaluated using the EGE criteria in addition to all eligible employees of employer group as a single unit. If the employer group passes the EGE criteria as a single unit, but an individual bargaining unit does not, the employer group may only participate if all eligible employees of the entity participate.

(3) The authority will determine which of the criteria in (a) though (d) of this subsection is used to evaluate the employer group based upon the total number of eligible employees in the single unit.

(a) **Micro groups** (a single unit of one to ten employees) must meet the following criteria in order to pass the EGE evaluation:

(i) Provide proof of current coverage or proof of prior coverage within the last twelve months; and

(ii) The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the nonmedicare PEBB risk pool as ~~((determined by the authority))~~ described in subsection (1) of this section.

(b) **Small and medium groups** (a single unit of eleven to three hundred employees) must meet the following criterion in order to pass the EGE evaluation: The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the nonmedicare PEBB risk pool as ~~((determined by the authority))~~ described in subsection (1) of this section.

(c) **Large groups** (a single unit of three hundred one to two thousand five hundred employees) must meet the following criteria in order to pass the EGE evaluation:

(i) The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the nonmedicare PEBB risk pool as ~~((determined by the authority))~~ described in subsection (1) of this section;

(ii) One of the following two conditions must be met:

- The frequency of large claims must be less than or equal to the historical benchmark frequency for the PEBB like population within the nonmedicare population as described in subsection (1) of this section; and

• The ongoing large claims management report must demonstrate that the frequency of ongoing large claims is less than or equal to the recurring benchmark frequency for the PEBB like population within the nonmedicare population as described in subsection (1) of this section.

(d) **Jumbo groups** (a single unit of two thousand five hundred one or more employees) must meet the following criteria in order to pass the actuarial evaluation:

(i) The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the nonmedicare PEBB risk pool as ((determined by the authority)) described in subsection (1) of this section;

(ii) One of the following two conditions must be met:

• The frequency of large claims must be less than or equal to the PEBB historical benchmark frequency for the PEBB like population within the nonmedicare population as described in subsection (1) of this section;

• The ongoing large claims management report must demonstrate that the frequency of ongoing large claims is less than or equal to the recurring benchmark frequency for the PEBB like population within the nonmedicare population (s) as described in subsection (1) of this section.

(iii) Provide an executive summary of benefits;

(iv) Provide a summary of benefits and certificate of coverage;

(v) Provide a summary of historical plan costs; and

(vi) The evaluation of criteria in (d)(iii), (iv) and (v) of this subsection must indicate that the historical cost of benefits for the employer group is equal to or less than the historical cost of the PEBB like population within the nonmedicare population as described in subsection (1) of this section for a comparable plan design.

(4) ~~((The group evaluation for a jumbo group))~~ An approved group application is valid for ((two years after approval)) three hundred sixty-five calendar days after the date the application is approved by the authority. If an employer group applies to add additional bargaining units after ~~((two years))~~ the three hundred sixty-five calendar day period has ended, the group must be reevaluated.

(5) An entity whose employer group application is denied may appeal the authority's decision to the PEBB appeals committee through the process described in WAC 182-16-038.

(6) An entity whose employer group application is approved may purchase insurance for its employees under the participation requirements described in WAC 182-08-245.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-08-245 Employer group participation requirements. This section applies to an employer group as defined in WAC 182-08-015 that is approved to purchase insurance for its employees through a contract with the health care authority (HCA).

(1) Prior to enrollment of employees in public employees benefits board (PEBB) insurance coverage, the employer group must:

(a) Remit to the authority the required start-up fee in the amount publicized by the PEBB program;

(b) Sign a contract with the authority;

(c) Determine employee and dependent eligibility and terms of enrollment for insurance coverage ~~((in accordance with))~~ by the criteria outlined in the employer group's contract with the authority;

(d) Determine eligibility in order to ensure the PEBB program's continued status as a governmental plan under Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA) as amended. This means ~~((that only))~~ the employer group may only consider employees whose services are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities, whether or not those activities qualify as essential governmental functions ~~((may be considered eligible by the employer group))~~ to be eligible; and

(e) Ensure PEBB ~~((health plans are))~~ insurance coverage is the only employer-sponsored ~~((health plans))~~ coverage available to groups of employees eligible for PEBB insurance coverage under the contract.

(2) Pay premiums ~~((in accordance with))~~ under its contract with the authority based on the following premium structure:

(a) The premium rate structure for school districts and educational service districts will be a composite rate equal to the rate charged to state agencies plus an amount equal to the employee premium based on health plan ~~((choice))~~ election and family enrollment. School districts and educational service districts must collect an amount equal to the premium surcharge(s) applied to an employee's account by the authority from their employees and include the funds in their payment to the authority.

Exception: The authority will allow districts that enrolled prior to September 1, 2002, to continue participation based on a tiered rate structure. The authority may require the district to change to a composite rate structure with ninety days advance written notice.

(b) The premium rate structure for employer groups other than districts described in (a) of this subsection will be a tiered rate based on health plan ~~((choice))~~ election and family enrollment. Employer groups must collect an amount equal to the premium surcharge(s) applied to an employee's account by the authority from their employees and include the funds in their payment to the authority.

Exception: The authority will allow employer groups that enrolled prior to January 1, 1996, to continue to participate based on a composite rate structure. The authority may require the employer group to change to a tiered rate structure with ninety days advance written notice.

(3) If an employer group wants to make subsequent changes to the contract, the changes must be submitted to the authority for approval.

(4) The employer group must maintain participation in PEBB insurance coverage for at least one full year. An employer group may only end participation at the end of a plan year unless the authority approves a mid-year termination. To end participation, an employer group must provide written notice to the PEBB program at least sixty days before the requested termination date.

(5) Upon approval to purchase insurance through a contract with the authority, the employer group must provide a list of employees and dependents that are enrolled in ~~((COBRA benefits))~~ Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage and the remaining number of months available to them based on their qualifying event. These employees and dependents may enroll in PEBB medical and dental as COBRA enrollees for the remainder of the months available to them based on their qualifying event.

(6) Enrollees in PEBB insurance coverage under one of the continuation of coverage provisions allowed under chapter 182-12 WAC or retirees included in the transfer unit as allowed under WAC 182-08-237 cease to be eligible as of the last day of the contract and may not continue enrollment beyond the end of the month in which the contract is terminated.

Exception: If an employer group, other than a school district or educational service district, ends participation, retired and disabled employees who began participation before September 15, 1991, are eligible to continue enrollment in PEBB insurance coverage if the employee continues to meet the procedural and eligibility requirements of WAC 182-12-171. Employees who enrolled after September 15, 1991, who are enrolled in PEBB retiree insurance coverage cease to be eligible under WAC 182-12-171, but may continue health plan enrollment under COBRA (see WAC 182-12-146).

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-109 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates another meaning:

"Affordable Care Act" means the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, P.L. 111-152, or federal regulations or guidance issued under the Affordable Care Act.

"Annual open enrollment" means an annual event set aside for a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections for the following plan year. Subscribers may transfer from one health plan to another, enroll or remove dependents from coverage, enroll or waive enrollment in ~~((a))~~ PEBB medical ((plan)), or employees may enroll in or change their election under the DCAP, the medical FSA, or the premium payment plan.

"Authority" or "HCA" means the health care authority.

"Benefits-eligible position" means any position held by an employee who is eligible for benefits under WAC 182-12-114, with the exception of employees who establish eligibility under WAC 182-12-114 (2) or (3)(a)(ii).

"Blind vendor" means a "licensee" as defined in RCW 74.18.200.

"Board" means the public employees benefits board established under provisions of RCW 41.05.055.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Continuation coverage" means the temporary continuation of PEBB health plan coverage available to enrollees after a qualifying event occurs as administered under Title XXII of the Public Health Service (PHS) Act, 42 U.S.C. Secs. 300bb-1 through 300bb-8.

"Creditable coverage" means coverage that meets the definition of "creditable coverage" under RCW 48.66.020 (13)(a) and includes payment of medical and hospital benefits.

"Defer" means to postpone enrollment or interrupt enrollment in a PEBB health plan by a retiree or eligible survivor.

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260, except that "surviving spouses, state registered domestic partners, and dependent children" of emergency service personnel who are killed in the line of duty is defined in WAC 182-12-250.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, e-mails, electronic files, or other printed or written items.

"Effective date of enrollment" means the first date when an enrollee is entitled to receive covered benefits.

"Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021 (1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as pro-

vided in RCW 41.05.021 (1)(g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

"Employer-based group medical insurance" means group medical insurance coverage related to a current employment relationship. It does not include medical insurance coverage available to retired employees, individual market medical insurance coverage, or government-sponsored programs such as medicare or medicaid.

"Employer group" means those (~~employee organizations representing state civil service employees;~~) counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, (~~charter schools, and~~) educational service districts (~~(participating in PEBB insurance coverage under contractual agreement)~~), and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority as described in WAC 182-08-245.

"Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; or a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Exchange" means the Washington health benefit exchange established in RCW 43.71.020, and any other health benefit exchange established under the Affordable Care Act.

"Exchange coverage" means coverage offered by a qualified health plan through an exchange.

"Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

"Federal (~~Retiree Plan~~) retiree medical plan" means the Federal Employees Health Benefits program (FEHB) (~~and TriCare~~) or TRICARE which are not employer-based group medical insurance.

"Health plan" means a plan offering medical or dental, or both, developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and the state board for community and technical colleges.

"Insurance coverage" means any health plan, life insurance, long-term care insurance, long-term disability (LTD) insurance, or property and casualty insurance administered as a PEBB benefit.

"Layoff," for purposes of this chapter, means a change in employment status due to an employer's lack of funds or an employer's organizational change.

"Life insurance" includes basic life insurance paid for by the employing agency, life insurance offered to employees on an optional basis, and retiree life insurance.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Mail" or "mailing" means placing a document in the United States Postal system, commercial delivery service, or Washington state consolidated mail services properly addressed.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Pay status" means all hours for which an employee receives pay.

"PEBB" means the public employees benefits board.

"PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB benefits by the PEBB program. The director has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.

"PEBB benefits" means one or more insurance coverages or other employee benefits administered by the PEBB program within the health care authority.

"PEBB program" means the program within the HCA (~~which~~) that administers insurance and other benefits for eligible employees (as (~~defined~~) described in WAC 182-114), eligible retired (~~and disabled~~) employees (as (~~defined~~) described in WAC 182-12-171), eligible dependents (as (~~defined~~) described in WAC 182-12-250 and 182-12-260) and others as defined in RCW 41.05.011.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's premium contribution, due to an enrollee's tobacco use or a subscriber's spouse or registered domestic partner choosing not to enroll in his or her employer-based group medical insurance when:

- Premiums are less than ninety-five percent of Uniform Medical Plan (UMP) Classic premiums; and
- The actuarial value of benefits is at least ninety-five percent of the actuarial value of UMP Classic benefits.

"Qualified health plan" means a medical plan that is certified to be offered through an exchange.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the DCAP, medical FSA, or premium payment plan as authorized in chapter 41.05 RCW.

"School district" means public schools as defined in RCW 28A.150.010 which includes charter schools established under chapter 28A.710 RCW.

"Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

"Special open enrollment" means a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections outside of the annual open enrollment period when specific life events occur. Subscribers may change health plans and enroll or remove dependents from coverage. Additionally, employees may enroll in or waive enrollment in ~~((a))~~ PEBB medical ~~((plan))~~, and may enroll in or change their election under the DCAP, medical FSA, or the premium payment plan. For special open enrollment events as they relate to specific PEBB benefits, see WAC 182-08-198, 182-08-199, 182-12-128, and 182-12-262.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"Subscriber" means the employee, retiree, COBRA beneficiary, or eligible survivor who has been designated by the HCA as the individual to whom the HCA and contracted vendors will issue all notices, information, requests and premium bills on behalf of enrollees.

~~("Termination of the employment relationship" means that an employee resigns or an employee is terminated and the employing agency has no anticipation that the employee will be rehired.)~~

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, chewing tobacco, snuff, and other tobacco products. It does not include United States Food and Drug Administration (FDA) approved quit aids or e-cigarettes until their tobacco related status is determined by the FDA.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

"Waive" means to interrupt an eligible employee's enrollment in a PEBB health plan because the employee is enrolled in other employer-based group medical insurance, TRICARE, or medicare as allowed under WAC 182-12-128, or is on approved educational leave and obtains other employer-based group health insurance as allowed under WAC 182-12-136.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-111 (~~Eligible entities and individuals.~~) Which entities and individuals are eligible for public employees benefits board (PEBB) benefits? The following entities and individuals shall be eligible for public employees benefits board (PEBB) benefits subject to the terms and conditions set forth below:

(1) **State agencies.** State agencies, as defined in WAC 182-12-109, are required to participate in all PEBB benefits. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(2) **Employer groups.** Employer groups may apply to participate in insurance coverage for groups of employees described in ~~((subsection))~~ (a) of this ~~((section))~~ subsection at the option of each employer group:

(a) All eligible employees of the entity must transfer as a unit with the following exceptions:

~~((•))~~ (i) Bargaining units may elect to participate separately from the whole group;

~~((•))~~ (ii) Nonrepresented employees may elect to participate separately from the whole group provided all nonrepresented employees join as a group; and

~~((•))~~ (iii) Members of the employer group's governing authority may participate as described in the employer group's governing statutes and RCW 41.04.205.

(b) ~~((The))~~ Employer groups must apply through the process described in WAC 182-08-235. School district and educational service district applications must provide the documents described in WAC 182-08-235 (1), (2), and (3). If a school district or educational service district is required by the superintendent of public instruction to purchase insurance coverage provided by the authority, the school district or educational service district is required to submit documents and information described in WAC 182-08-235 (1)(c), (2), and (3). Employer group applications are subject to review and approval by the health care authority (HCA). With the exception of a school district or educational service district, the authority will approve or deny an employer group's application based on the employer group evaluation criteria described in WAC 182-08-240.

(c) Employer groups participate through a contract with the authority as described in WAC 182-08-245.

(3) **School districts and educational service districts.** In addition to subsection (2) of this section, the following applies to school districts and educational service districts:

(a) The HCA will collect an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premium by health plan and family size and an amount equal to any applicable premium surcharge as would be charged to state employees for each participating school district or educational service district.

(b) The HCA may collect these amounts in accordance with the district fiscal year, as described in RCW 28A.505-030.

(4) **The Washington health benefit exchange.** In addition to subsection (2) of this section, the following provisions apply:

(a) The Washington health benefit exchange is subject to the same rules as an employing agency in chapters 182-08, 182-12 and 182-16 WAC.

(b) ~~((An))~~ Employees of the Washington health benefit exchange ~~((is))~~ are subject to the same rules as ~~((an))~~ employees of an employing agency in chapters 182-08, 182-12 and 182-16 WAC.

(5) Eligible nonemployees.

(a) ~~Blind vendors ((means a "licensee" as defined in RCW 74.18.200: Vendors))~~ actively operating a business enterprise program facility in the state of Washington and deemed eligible by the department of services for the blind (DSB) may voluntarily participate in PEBB medical. Dependents of blind vendors are eligible as described in WAC 182-12-260. Eligible blind vendors and their dependents may enroll during the following times:

(i) ~~((Vendors that do not enroll when first eligible may enroll only during the annual open enrollment period offered by the HCA or the first day of the month following loss of other insurance coverage.~~

~~((ii) Department of services for the blind))~~ When newly eligible: The DSB will notify eligible blind vendors of their eligibility in advance of the date ((that)) they are eligible ((to apply)) for enrollment in PEBB medical.

~~((iii) The eligibility requirements for dependents of blind vendors shall be the same as the requirements for dependents of the state employees in WAC 182-12-260.~~

~~((iv) An individual licensee or))~~ To enroll, blind vendors must submit the required forms to the DSB. The forms must be received by the DSB no later than thirty-one days after the blind vendor becomes eligible for PEBB medical.

(ii) During the annual open enrollment: Blind vendors may enroll during the annual open enrollment. The required form must be received by the DSB before the end of the annual open enrollment. Enrollment will begin January 1st of the following year.

(iii) Following loss of other medical insurance coverage: Blind vendors may enroll following loss of other medical insurance coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA). To enroll, blind vendors must submit the required forms to the DSB. The forms must be received by the DSB no later than sixty days after the loss of other medical insurance coverage. In addition to the required forms, the DSB will require blind vendors to provide evidence of loss of other medical insurance coverage.

(iv) Blind vendors who cease((s)) to actively operate a facility become((s)) ineligible to participate in PEBB medical as described in (a) of this subsection. ((Individuals losing)) Enrollees who lose eligibility for coverage may continue enrollment in PEBB medical on a self-pay basis under COBRA coverage as described in WAC 182-12-146(5).

(v) ((An individual licensee or vendor is)) Blind vendors are not eligible for PEBB retiree insurance coverage.

(b) Dislocated forest products workers enrolled in the employment and career orientation program pursuant to chapter 50.70 RCW shall be eligible for PEBB health plans while enrolled in that program.

(c) School board members or students eligible to participate under RCW 28A.400.350 may participate in insurance coverage as long as they remain eligible under that section.

(6) Individuals and entities not eligible as employees include:

(a) Adult family home providers as defined in RCW 70.128.010;

(b) Unpaid volunteers;

(c) Patients of state hospitals;

(d) Inmates in work programs offered by the Washington state department of corrections as described in RCW 72.09.100 or an equivalent program administered by a local government;

(e) Employees of the Washington state convention and trade center as provided in RCW 41.05.110;

(f) Students of institutions of higher education as determined by their institutions; and

(g) Any others not expressly defined as an employee ~~((s under RCW 41.05.011))~~.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-123 Dual enrollment is prohibited. Public employees benefits board (PEBB) health plan coverage is limited to a single enrollment per individual.

(1) Effective January 1, 2002, an individual ~~((s))~~ who ~~((have))~~ has more than one source of eligibility for enrollment in PEBB health plan coverage (called "dual eligibility") ~~((are))~~ is limited to one enrollment.

(2) An eligible employee may waive PEBB medical and enroll as a dependent under the health plan of his or her spouse, registered domestic partner, or parent as stated in WAC 182-12-128.

(3) A dependent enrolled in a PEBB health plan who becomes eligible for PEBB benefits as an employee must elect to enroll in PEBB benefits as described in WAC 182-08-197 (1) or (3). This includes making an election to enroll in or waive enrollment in PEBB medical as described in WAC 182-12-128 (1)(a).

(a) If the employee does not waive enrollment in PEBB medical, the employee is not eligible to remain enrolled in his or her spouse's, registered domestic partner's, or parent's PEBB health plan as a dependent. If the employee's spouse, registered domestic partner, or parent does not remove the employee (who is enrolled as a dependent) from his or her subscriber account, the PEBB program will terminate the employee's enrollment as a dependent the last day of the month before the employee's employer-paid coverage begins.

Exception:

An enrolled dependent who becomes newly eligible for PEBB benefits as an employee ~~((as described in WAC 182-12-114))~~ may be dual-enrolled in PEBB coverage for one month. This exception is only allowed for the first month the dependent is enrolled as an employee, and only if the dependent becomes enrolled as an employee on the first working day of a month that is not the first day of the month.

~~((2) An eligible employee may waive medical and enroll as a dependent on the coverage of his or her eligible spouse, eligible registered domestic partner, or eligible parent as stated in WAC 182-12-128.~~

~~(3) Children~~) (b) If the employee elects to waive his or her enrollment in PEBB medical, the employee will remain enrolled in PEBB medical under his or her spouse's, registered domestic partner's, or parent's PEBB health plan as a dependent.

(4) A child who is eligible for medical and dental under two subscribers may be enrolled as a dependent under the health plan of only one subscriber.

~~((4))~~ (5) When an employee (~~(who)~~) is eligible for the employer contribution towards insurance coverage due to employment in more than one PEBB-participating employing agency the following provisions apply:

(a) The employee must choose to enroll under only one employing agency.

Exception: Faculty who seek to establish or maintain eligibility under WAC 182-12-114(3) with two or more state institutions of higher education will be enrolled under the employing agency responsible to pay the employer contribution according to WAC 182-08-200(2).

(b) If the employee loses eligibility under the employing agency he or she chose to enroll under as described in subsection (5)(a) of this section, the employee must notify his or her other employing agency no later than sixty days from the date PEBB coverage ends through the employing agency described in (a) of this subsection to transfer coverage.

(c) The employee's insurance coverage elections remain the same when an employee transfers from enrollment under one employing agency to another employing agency without a break in PEBB coverage, as described in (b) of this subsection.

(6) A retiree who defers enrollment in a PEBB health plan as described in WAC 182-12-200 by enrolling as an eligible dependent in a health plan sponsored by PEBB, a Washington state school district, or a Washington state education service district and who loses the employer contribution for such coverage must enroll in PEBB retiree insurance coverage as described in WAC 182-12-171 or defer enrollment as described in WAC 182-12-205.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-128 When may an employee(s) waive ((or enroll)) enrollment in public employees benefits board (PEBB) medical and when may he or she enroll in PEBB medical after having waived enrollment? ~~((Employees))~~ An employee may waive enrollment in public employees benefits board (PEBB) medical if he or she is enrolled in other employer-based group medical insurance, TRICARE, or medicare. An employee who waives enrollment in PEBB medical must enroll in dental, basic life, and basic long-term disability insurance (unless the employing agency does not participate in these ((public employees benefits board (PEBB))) insurance coverages). ((However, employees may waive PEBB medical if they are enrolled in other employer-based group medical insurance.))

(1) ~~((Employees may))~~ To waive enrollment in PEBB medical ((by submitting)), the employee must submit the required ((enrollment)) form to ((their)) his or her employing agency ((during)) at one of the following times:

(a) **When the employee becomes eligible:** An employee(s) may waive PEBB medical when ((they)) he or she becomes eligible for PEBB benefits. The employee(s) must indicate ((they are waiving)) his or her election to waive enrollment in PEBB medical on the required ((enrollment form they submit to their)) form and submit the form to his or her employing agency. The ((enrollment)) form must be received by the employing agency no later than thirty-one days after the date ((they)) the employee becomes eligible (see WAC 182-08-197). PEBB medical will be waived as of the date the employee becomes eligible for PEBB benefits.

(b) **During the annual open enrollment:** An employee(s) may waive PEBB medical during the annual open enrollment ((period)). The required ((enrollment)) form must be received by ((their)) the employee's employing agency before the end of the annual open enrollment. PEBB medical will be waived beginning January 1st of the following year.

(c) **During a special open enrollment:** An employee(s) may waive PEBB medical during a special open enrollment as described in subsection (4) of this section.

The employee must submit the required form to his or her employing agency. The form must be received no later than sixty days after the event that creates the special open enrollment. In addition to the required form, the employee must provide evidence of the event that creates the special open enrollment.

PEBB medical will be waived the last day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, PEBB medical will be waived the last day of the previous month. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, PEBB medical will be waived the last day of the previous month.

(2) If an employee waives PEBB medical, the employee's eligible dependents may not be enrolled in medical.

(3) Once PEBB medical is waived, ((enrollment)) the employee is only allowed ((during)) to enroll in PEBB medical at the following times:

(a) During the annual open enrollment((:)). The required form must be received by the employee's employing agency before the end of the annual open enrollment. PEBB medical will begin January 1st of the following year.

(b) During a special open enrollment ((created by an event that allows for enrollment outside of the annual open enrollment as described in subsection (4) of this section. In addition to the required forms, the PEBB program will require the employee to provide evidence of eligibility and evidence of the event that creates a special open enrollment)). A special open enrollment allows an employee to change his or her enrollment outside of the annual open enrollment. A special open enrollment may be created when one of the events described in subsection (4) of this section occurs.

The employee must submit the required form to his or her employing agency. The form must be received no later than sixty days after the event that creates the special open enrollment. In addition to the required form, the employee

must provide evidence of the event that creates the special open enrollment.

PEBB medical will begin the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, coverage is effective on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, PEBB medical will begin the first of the month in which the event occurs.

~~(4) **Special open enrollment:** ((Employees may waive enrollment in medical or enroll in medical if a special open enrollment event occurs. The change in enrollment must be allowable under the Internal Revenue Code (IRC) and correspond to and be consistent with the event that creates the special open enrollment for the employee, the employee's dependent, or both. Employees must provide evidence of the event that created the special open enrollment.)) Any one of the ((following)) events in (a) through (j) of this subsection may create a special open enrollment~~((:)).~~ The change in enrollment must be allowable under the Internal Revenue Code (IRC) and correspond to and be consistent with the event that creates the special open enrollment for the employee, the employee's dependent, or both.~~

(a) Employee acquires a new dependent due to:

(i) Marriage or registering a domestic partnership;

(ii) Birth, adoption or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship; or

(iv) A child becoming eligible as a dependent with a disability;

(b) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) Employee or an employee's dependent has a change in employment status that affects the employee's or employee's dependent's eligibility for their employer contribution toward employer-based group medical insurance;

(d) Employee or an employee's dependent has a change in enrollment under another employer-based group medical insurance plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(e) Employee's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States;

(f) A court order or national medical support notice (see also WAC 182-12-263) requires the employee or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former registered domestic partner is not an eligible dependent);

(g) Employee or an employee's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the employee or an employee's dependent loses eligibility for coverage under medicaid or CHIP;

(h) Employee or an employee's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or a state children's health insurance program (CHIP)~~((:~~

~~To waive or enroll during a special open enrollment, the employee must submit the required forms to his or her employing agency. The forms must be received by the employing agency no later than sixty days after the event that creates the special open enrollment.~~

~~Medical will be waived the end of the month following the later of the event date or the date the form is received. If the later day is the first of the month, medical will be waived the last day of the previous month. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, medical will be waived the first of the month in which the event occurs.~~

~~Enrollment in medical will begin the first day of the month following the later of the event date or the date the form is received. If that day is the first of the month, coverage is effective on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, enrollment in medical will begin the first of the month in which the event occurs.)):~~

~~(i) Employee or employee's dependent becomes eligible and enrolls in TRICARE, or loses eligibility for TRICARE;~~

~~(j) Employee becomes eligible and enrolls in medicare, or loses eligibility for medicare.~~

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-131 How do eligible employees maintain the employer contribution toward insurance coverage? The employer contribution toward insurance coverage begins on the day that public employees benefits board (PEBB) benefits begin under WAC 182-12-114. This section describes under what circumstances employees maintain eligibility for the employer contribution toward insurance coverage.

(1) **Maintaining the employer contribution.** Except as described in subsections (2), (3), and (4) of this section, employees who have established eligibility for benefits under WAC 182-12-114 are eligible for the employer contribution each month in which they are in pay status eight or more hours per month.

(2) **Maintaining the employer contribution - Benefits-eligible seasonal employees.**

(a) Benefits-eligible seasonal employees (eligible under WAC 182-12-114(2)) who work a season of less than nine months are eligible for the employer contribution in any month of the season in which they are in pay status eight or more hours during that month. The employer contribution toward insurance coverage for seasonal employees returning after their off season begins on the first day of the first month of the season in which they are in pay status eight hours or more.

(b) Benefits-eligible seasonal employees (eligible under WAC 182-12-114(2)) who work a season of nine months or more are eligible for the employer contribution:

(i) In any month of the season in which they are in pay status eight or more hours during that month; and

(ii) Through the off season following each season worked.

(3) Maintaining the employer contribution - Eligible faculty.

(a) Benefits-eligible faculty anticipated to work half time or more the entire instructional year or equivalent nine-month period (eligible under WAC 182-12-114 (3)(a)(i)) are eligible for the employer contribution each month of the instructional year, except as described in subsection (7) of this section.

(b) Benefits-eligible faculty who are hired on a quarter/semester to quarter/semester basis (eligible under WAC 182-12-114 (3)(a)(ii)) are eligible for the employer contribution each quarter or semester in which employees work half-time or more.

(c) Summer or off-quarter/semester coverage: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who work an average of half-time or more throughout the entire instructional year or equivalent nine-month period and work each quarter/semester of the instructional year or equivalent nine-month period are eligible for the employer contribution toward summer or off-quarter/semester insurance coverage.

Exception:

Eligibility for the employer contribution toward summer or off-quarter/semester insurance coverage ends on the end date specified in an employing agency's termination notice or an employee's resignation letter, whichever is earlier, if the employing agency has no anticipation that the employee will be returning as faculty at any institution of higher education where the employee has employment. If the employing agency deducted the employee's premium for insurance coverage after the employee was no longer eligible for the employer contribution, insurance coverage ends the last day of the month for which employee premiums were deducted.

(d) Two-year averaging: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who worked an average of half-time or more in each of the two preceding academic years are potentially eligible to receive uninterrupted employer contribution to insurance coverage. "Academic year" means summer, fall, winter, and spring quarters or summer, fall, and spring semesters and begins with summer quarter/semester. In order to be eligible for the employer contribution through two-year averaging, the faculty must provide written notification of his or her potential eligibility to his or her employing agency or agencies within the deadlines established by the employing agency or agencies. Faculty continue to receive uninterrupted employer contribution for each academic year in which they:

(i) Are employed on a quarter/semester to quarter/semester basis and work at least two quarters or two semesters; and

(ii) Have an average workload of half-time or more for three quarters or two semesters.

Eligibility for the employer contribution under two-year averaging ceases immediately if the eligibility criteria is not met or if the eligibility criteria becomes impossible to meet.

(e) Faculty who lose eligibility for the employer contribution: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who lose eligibility for the employer contribution will regain it if they return to a faculty position where it is anticipated that they will work half-time or more for the quarter/semester no later than the twelfth month after the month in which they lost eligibility for the employer contribution. The employer contribution begins on the first day of the month in which the quarter/semester begins.

(4) Maintaining the employer contribution - Employees on leave and under the special circumstances listed below.

(a) Employees who are on approved leave under the federal Family and Medical Leave Act (FMLA) continue to receive the employer contribution as long as they are approved under the act.

(b) Unless otherwise indicated in this section, employees in the following circumstances receive the employer contribution only for the months they are in pay status eight hours or more:

(i) Employees on authorized leave without pay;

(ii) Employees on approved educational leave;

(iii) Employees receiving time-loss benefits under workers' compensation;

(iv) Employees called to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA); or

(v) Employees applying for disability retirement.

(5) Maintaining the employer contribution - Employees who move from an eligible to an otherwise ineligible position due to a layoff maintain the employer contribution toward insurance coverage under the criteria in WAC 182-12-129.

(6) Employees who are in pay status less than eight hours in a month. Unless otherwise indicated in this section, when there is a month in which employees are not in pay status for at least eight hours, employees:

(a) Lose eligibility for the employer contribution for that month; and

(b) Must reestablish eligibility for PEBB benefits under WAC 182-12-114 in order to be eligible for the employer contribution again.

(7) The employer contribution toward insurance coverage ends in any one of these circumstances for all employees:

(a) When employees fail to maintain eligibility for the employer contribution as indicated in the criteria in subsection (1) through (6) of this section.

(b) When the employment relationship is terminated. As long as the employing agency has no anticipation that the employee will be rehired, the employment relationship is terminated:

(i) On the date specified in an employee's letter of resignation; or

(ii) On the date specified in any contract or hire letter or on the effective date of an employer-initiated termination notice.

(c) When employees move to a position that is not anticipated to be eligible for benefits under WAC 182-12-114, not including changes in position due to a layoff.

The employer contribution toward PEBB benefits cease for employees and their enrolled dependents the last day of the month in which employees are eligible for the employer contribution under this section.

Exception: If the employing agency deducted the employee's premium for insurance coverage after the employee was no longer eligible for the employer contribution, insurance coverage ends the last day of the month for which employee premiums were deducted.

(8) Options for continuation coverage by self-paying. During temporary or permanent loss of the employer contribution toward insurance coverage, employees have options for providing continuation coverage for themselves and their dependents by self-paying the full premium set by the health care authority (HCA). These options are available according to WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, 182-12-148, and 182-12-270.

AMENDATORY SECTION (Amending WSR 13-22-019, filed 10/28/13, effective 1/1/14)

WAC 182-12-133 What options for continuation coverage are available to employees ~~((an))~~ and their dependents during certain types of leave or ~~((whose work))~~ when employment ends due to a layoff? Employees who have established eligibility for public employees benefits board (PEBB) benefits under WAC 182-12-114 ~~((have options for providing continuation))~~ may continue coverage for themselves and their dependents ((by self-paying the full premium set by the health care authority (HCA) during temporary or permanent loss of the employer contribution toward insurance coverage) during certain types of leave or when their employment ends due to a layoff.

(1) ~~((When an employee is))~~ Employees who are no longer eligible for the employer contribution toward insurance coverage due to an event described in ~~((a) through (f))~~ (c)(i) through (vi) of this subsection((insurance coverage may be continued)) may continue insurance coverage by self-paying the full premium set by the ((HCA, with no contribution from the employer.)) health care authority (HCA) from the date the employer contribution is lost.

(a) Employees may self-pay for a maximum of twenty-nine months. The employee must pay the premium amounts for insurance coverage as premiums become due. If premiums are more than sixty days delinquent, insurance coverage will end as of the last day of the month for which a full premium was paid.

(b) Employees may continue any combination of medical, dental and life insurance; however, only employees on approved educational leave or called in to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA) may continue either basic or both basic and optional long-term disability insurance.

(c) Employees in the following circumstances qualify to continue coverage under this subsection:

~~((a) The employee is))~~ (i) Employees who are on authorized leave without pay;

~~((b) The employee is))~~ (ii) Employees who are on approved educational leave;

~~((e) The employee is))~~ (iii) Employees who are receiving time-loss benefits under workers' compensation;

~~((d) The employee is))~~ (iv) Employees who are called to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA);

~~((e) The employee's))~~ (v) Employees whose employment ends due to a layoff as defined in WAC 182-12-109; or

~~((f) The employee is))~~ (vi) Employees who are applying for disability retirement.

(2) The number of months that ~~((an))~~ employees self-pay~~((s))~~ the premium while eligible ~~((under))~~ as described in subsection (1) of this section will count toward the total months of continuation coverage allowed under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA). ((An employee who is)) Employees who are no longer eligible for continuation coverage as described in subsection (1) of this section but who ((has)) have not used the maximum number of months allowed under COBRA coverage may continue medical and dental for the remaining difference in months by self-paying the premium ((under COBRA)) as described in WAC 182-12-146.

AMENDATORY SECTION (Amending WSR 12-20-022, filed 9/25/12, effective 11/1/12)

WAC 182-12-138 What options are available if an employee is approved for the federal Family and Medical Leave Act (FMLA)? (1) An employee((s)) on approved leave under the federal Family and Medical Leave Act (FMLA) may continue to receive the employer contribution toward insurance coverage in accordance with the federal FMLA. ((These)) The employee((s)) may also continue current optional life and optional long-term disability. The employee's employing agency is responsible for determining if the employee is eligible for leave under FMLA and the duration of such leave.

(2) If ((the)) an employee's contribution toward premiums is more than sixty days delinquent, insurance coverage will end as of the last day of the month for which a full premium was paid.

~~((2))~~ (3) If an employee exhausts the period of leave approved under FMLA, insurance coverage may be continued by self-paying the full premium set by the HCA, with no contribution from the employer, under WAC 182-12-133(1) while on approved leave.

AMENDATORY SECTION (Amending WSR 13-22-019, filed 10/28/13, effective 1/1/14)

WAC 182-12-146 ~~((What options for continuation coverage are available to subscribers and dependents who become eligible under COBRA?))~~ When is an enrollee eligible to continue public employee's benefits board (PEBB) health plan coverage under Consolidated Omnibus Budget Reconciliation Act (COBRA)? An enrollee ~~((ean))~~ may continue public employee's benefits board (PEBB) health plan coverage under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) by self-paying the full premium set by the health care authority (HCA) ((in accordance with Consolidated Omnibus Budget Reconciliation Act (COBRA))

iliation Act (COBRA) regulations in the following circumstances:)). Premiums must be paid as described in WAC 182-08-180(b).

(1) An employee or an employee's dependent who loses eligibility for the employer contribution toward insurance coverage and who qualifies for continuation coverage under COBRA may continue medical, dental, or both.

(2) An employee or an employee's dependent who loses eligibility for continuation coverage described in WAC 182-12-133, 182-12-138, 182-12-141, 182-12-142, or 182-12-148 but who has not used the maximum number of months allowed under COBRA may continue medical, dental, or both for the remaining difference in months.

(3) A retired (~~(or disabled)~~) employee who loses eligibility for PEBB retiree insurance because an employer group, with the exception of school districts and educational service districts, ceases participation in PEBB insurance coverage may continue medical, dental, or both.

(4) A retired (~~(or disabled)~~) employee, or a dependent of a retired (~~(or disabled)~~) employee, who is no longer eligible to continue coverage under WAC 182-12-171 may continue medical, dental, or both.

(5) (~~An individual licensee or~~) A blind vendor who ceases to actively operate a facility as described in WAC 182-12-111 (5)(a) may continue enrollment in public employees benefits board (PEBB) medical for the maximum number of months allowed under COBRA as described in this section.

(~~An individual licensee or~~) A blind vendor is not eligible for PEBB retiree insurance coverage.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-171 When (~~are~~) is a retiring employee(s) eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage? A retiring employee is eligible to continue enrollment or defer enrollment in public employees benefits board (PEBB) insurance coverage as a retiree if he or she meets procedural and substantive eligibility requirements as described in subsections (1) and (2) of this section.

(1) **Procedural requirements.** A retiring employee(s) must (~~meet these procedural requirements to~~) enroll or defer enrollment in (~~public employees benefits board~~) PEBB(~~s~~) retiree insurance coverage(~~, as well as have substantive eligibility under subsection (2) or (3))~~) as described in (a) and (b) of this (~~section~~) subsection:

(a) (~~The employee's form to enroll or defer enrollment~~) To enroll in PEBB retiree insurance coverage, the required form must be received by the PEBB program no later than sixty days after the employee's employer-paid (~~or~~) coverage, Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, or continuation coverage ends. The effective date of (~~health plan enrollment will be~~) PEBB retiree insurance coverage is the first day of the month (~~following the loss of~~) after the employee's employer-paid (~~or~~) coverage, COBRA coverage, or continuation coverage ends.

(~~Exception:~~ The effective dates of health plan enrollment for retirees who defer enrollment in a PEBB health plan at or after retirement are identified in WAC 182-12-200 and 182-12-205.

~~Employees who do not enroll in a PEBB health plan at retirement are only eligible to enroll at a later date if they have deferred enrollment and maintained continuous enrollment in other coverage)~~ (b) To defer enrollment in a PEBB health plan, the employee must defer enrollment as described in WAC 182-12-200 or 182-12-205.

(~~(b) Employees and~~) (c) A retiring employee and his or her enrolled dependents who are entitled to medicare must enroll and maintain enrollment in both medicare parts A and B if the employee retired after July 1, 1991. If (~~the employee~~) a retiree or an enrolled dependent becomes entitled to medicare after enrollment in PEBB retiree insurance coverage, he or she must enroll and maintain enrollment in medicare parts A and B to remain enrolled in PEBB retiree insurance coverage.

Note: If an enrollee who is entitled to medicare does not meet this procedural requirement, the enrollee is no longer eligible for enrollment in PEBB retiree insurance coverage. The enrollee may continue PEBB health plan enrollment (~~under COBRA- (see)) as described in WAC 182-12-146(3).~~

(2) **Substantive eligibility requirements.** (~~Eligible employees (as described in WAC 182-12-114 and 182-12-131) who end)~~

(a) An employee as defined in WAC 182-12-109 who is enrolled in PEBB benefits or an employee who is enrolled in basic benefits through a Washington state school district or educational service district as defined in RCW 28A.400.270 and ends public employment after becoming vested in a Washington state-sponsored retirement plan (~~(as described in subsection (4) of this section) are eligible to continue~~) may enroll or defer enrollment in PEBB retiree insurance coverage (~~(as a retiree if they)~~) if he or she meets procedural and substantive eligibility requirements.

(i) To be eligible to continue enrollment or defer enrollment insurance coverage as a retiree, the employee must be eligible to retire under a Washington state-sponsored retirement plan when the employee's employer-paid (~~or~~) coverage, COBRA coverage, or continuation coverage ends.

(ii) A retiring employee(s) who (~~do~~) does not meet (~~their~~) his or her Washington state-sponsored retirement plan's age requirement when (~~their employer paid~~) his or her employer-paid coverage or COBRA coverage, or continuation coverage ends, but who meets the age requirement within sixty days of coverage ending, may request (~~that their~~) an appeal as described in WAC 182-16-032. His or her eligibility will be reviewed by the PEBB appeals committee (~~(to determine eligibility (see WAC 182-16-032))~~). An employee(s) must meet PEBB retiree insurance coverage (~~(election)~~) procedural requirements as described in subsection (1) of this section.

(~~Employees~~) (b) A retiring employee of a state agency must immediately begin to receive a monthly retirement plan payment, with exceptions described below:

(*) (i) A retiring employee(s) who receives a lump-sum payment instead of a monthly retirement plan payment (~~are~~) is only eligible if the department of retirement systems offered the employee the choice between a lump sum actuarially equivalent payment and the ongoing monthly payment, as allowed by the plan; or

~~((*) (ii) A retiring employee(s) who (are) is a member(s) of a Plan 3 retirement plan, also called a separated employee(s) (defined in RCW 41.05.011(20)), (are eligible if they meet their) must meet his or her Plan 3 retirement (plan's) eligibility criteria. (They do) The employee does not have to receive a retirement plan payment to enroll in retiree insurance coverage;~~

~~((Employees who are members)) (c) A retiring employee of a Washington higher education institution who is a member of a higher education retirement plan (are eligible if they) (HERP) must immediately begin to receive a monthly retirement plan payment, or meet (their) his or her HERP plan's retirement eligibility criteria, or (are) be at least age fifty-five with ten years of state service;~~

~~((Employees not retiring under a)) (d) A retiring employee of an employer group participating in PEBB insurance coverage under contractual agreement with the authority must be eligible to retire as described in (i) or (ii) of this subsection to be eligible to continue PEBB insurance coverage as a retiree, except for a school district or educational service district employee who must meet the requirements as described in subsection (2)(e) of this section.~~

~~(i) A retiring employee who is eligible to retire under a retirement plan sponsored by an employer group or tribal government that is not a Washington state-sponsored retirement plan must meet the same age and years of service requirements as if (the person had been employed as) he or she was a member of (either) public employees retirement system Plan 1 or Plan 2 (for the same period of employment; or~~

~~Employees who retire from a local government or tribal government that participates in PEBB insurance coverage for their employees are eligible to continue PEBB insurance coverage as retirees if the employees meet the procedural and eligibility requirements under this section.~~

~~(a) Local government employees. If the local government) during his or her employment.~~

~~(ii) A retiring employee who is eligible to retire under a Washington state-sponsored retirement plan must immediately begin to receive a monthly retirement plan payment, with exceptions described in subsection (2)(b)(i) and (ii) of this section.~~

~~(iii) A retired employee of an employer group, except a Washington state school district or educational service district, that ends participation in PEBB insurance coverage (employees who enrolled after September 15, 1991, are) is no longer eligible (for) to continue enrollment in PEBB retiree insurance coverage (These employees may continue health plan coverage under COBRA (see WAC 182-12-146).~~

~~(b) Tribal government employees. If) if he or she enrolled after September 15, 1991. Any retiree who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-146.~~

~~(iv) A retired employee of a tribal government employer that ends participation in PEBB insurance coverage (its employees are) is no longer eligible (for) to continue enrollment in PEBB retiree insurance coverage. (These employees) Any retiree who loses eligibility for this reason may continue health plan (coverage under COBRA (see) enrollment as described in WAC 182-12-146(3)).~~

~~((e)) (e) A retiring employee of a Washington state school district (and) or educational service district (employees for districts that do not participate in PEBB insurance coverage. Employees of Washington state school districts and educational service districts who separate from employment after becoming vested in a Washington state-sponsored retirement system are eligible to enroll in PEBB health plans as a retiree when retired or permanently and totally disabled.~~

~~Except for employees who are members of a retirement Plan 3, employees who separate on or after October 1, 1993, must immediately begin to receive a monthly retirement plan payment from a Washington state-sponsored retirement system) must immediately begin to receive a monthly retirement plan payment, with exceptions described below:~~

~~(i) A retiring employee who ends employment before October 1, 1993; or~~

~~(ii) A retiring employee(s) who receives a lump-sum payment instead of a monthly retirement plan payment (are) is only eligible if the department of retirement systems offered the employee the choice between a lump sum actuarially equivalent payment and the ongoing monthly payment, as allowed by the plan, or the employee enrolled before 1995(-); or~~

~~(iii) A retiring employee(s) who (are) is a member(s) of a Plan 3 retirement system, also called a separated employee(s) (defined in RCW 41.05.011(20)), (are eligible if they meet their Plan 3 retirement plan's eligibility criteria. They do not have to receive a retirement plan payment to enroll in PEBB retiree insurance coverage.) must meet his or her Plan 3 retirement eligibility criteria; or~~

~~(iv) An employee(s) who retired as of September 30, 1993, and began receiving a monthly retirement (allowance) plan payment from a Washington state-sponsored retirement system (as defined in chapters 41.32, 41.35 or 41.40 RCW) (are) is eligible if (they) he or she enrolled in a PEBB health plan (not) no later than the (HCA's) health care authority's (HCA's) annual open enrollment period for the year beginning January 1, 1995.~~

~~(3) ((Substantive eligibility for) An elected (and) or a full-time appointed state official(s) of the legislative (and executive branches. Employees who are elected and full-time appointed state officials (as defined under WAC 182-12-114(4))) or executive branch of state government who voluntarily or involuntarily leave public office (are) is eligible to continue insurance coverage as a retiree if (they) he or she meets procedural requirements of subsection (1) of this section.~~

~~(4) Washington state-sponsored retirement ((systems)) plans include:~~

~~((*) (a) Higher education retirement plans;~~

~~((*) (b) Law enforcement officers' and firefighters' retirement system;~~

~~((*) (c) Public employees' retirement system;~~

~~((*) (d) Public safety employees' retirement system;~~

~~((*) (e) School employees' retirement system;~~

~~((*) (f) State judges/judicial retirement system;~~

~~((*) (g) Teachers' retirement system; and~~

~~((*) (h) State patrol retirement system.~~

(i) The two federal retirement systems, Civil Service Retirement System and Federal Employees' Retirement System, are considered ((a)) Washington state-sponsored retirement systems for Washington State University Extension for an employee(s) covered under PEBB insurance coverage at the time of retirement ((or disability)).

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-200 ((May)) How does a retiree(s) who ((are)) is enrolled as a dependent in a health plan sponsored by public employees benefits board (PEBB), a Washington state school district, or a Washington state educational service district ((sponsored health plan)) defer enrollment under PEBB retiree insurance coverage? ((The following provisions apply when retirees defer enrollment under public employees benefits board (PEBB) retiree insurance coverage when enrolled as a dependent in a PEBB, Washington state school district, or Washington state education service district sponsored health plan:

(1) Retirees who are enrolled in a PEBB, Washington state school district, or Washington state educational service district sponsored medical plan as a dependent may defer enrollment in a PEBB health plan. Retirees who defer enrollment in medical cannot remain enrolled in dental.

(2) Retirees who defer may later enroll themselves and their dependents in medical, or medical and dental, if they provide evidence of continuous enrollment in a PEBB, Washington state school district, or Washington state educational service district sponsored medical plan. Continuous enrollment must be from the date the retiree deferred enrollment in PEBB retiree insurance coverage. Retirees may enroll:

(a) During the PEBB annual open enrollment period. The required enrollment form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(b) When enrollment in the PEBB, Washington state school district, or Washington state educational service district sponsored medical plan ends or such coverage under COBRA ends. The required enrollment form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after the PEBB, Washington state school district, or Washington state educational service district sponsored medical plan ends-) (1) A retiree may defer enrollment in a public employees benefits board (PEBB) health plan during the period of time he or she is enrolled as a dependent in a health plan sponsored by PEBB, a Washington state school district, or a Washington state education service district, including such coverage under Consolidated Omnibus Budget Reconciliation Act (COBRA) or continuation coverage.

(2) A retiree who defers enrollment in medical must defer enrollment in dental. Retirees must be enrolled in medical to enroll in dental.

(3) A retiree who defers coverage may later enroll in a PEBB health plan if he or she provides evidence of continuous enrollment in a health plan sponsored by PEBB, a Wash-

ington state school district, or a Washington state educational service district and submits the required form as described in (a) and (b) of this subsection:

(a) During the PEBB annual open enrollment period. The required form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(b) When enrollment in a health plan sponsored by PEBB, a Washington state school district, or a Washington state educational service district ends, or such coverage under COBRA or continuation coverage ends. The retiree must submit the required form to enroll or defer enrollment as described in WAC 182-12-171 (1)(a). The required form must be received by the PEBB program no later than sixty days after coverage ends. PEBB health plan coverage begins the first day of the month following the date the other coverage ends.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-205 May retirees defer enrollment under public employees benefits board (PEBB) retiree insurance coverage at or after retirement? The following provisions apply when retirees defer enrollment under public employees benefits board (PEBB) retiree insurance coverage when enrolled in other coverage:

(1) Retirees who defer enrollment in a PEBB health plan also defer enrollment for all eligible dependents, except as ((stated)) described in subsection (2)(c) of this section.

(2) Retirees may defer enrollment in a PEBB health plan at or after retirement if continuously enrolled in other medical as described in this ((subsection)) section or WAC 182-12-200. Retirees who defer enrollment in medical ((automatically)) must defer enrollment in dental. Retirees must ((enroll)) be enrolled in medical to enroll in dental.

(a) Beginning January 1, 2001, retirees may defer enrollment in a PEBB health plan if they are enrolled in employer-based group medical insurance as an employee or the dependent of an employee, or such medical insurance continued under ((COBRA)) Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage or continuation coverage.

(b) Beginning January 1, 2001, retirees may defer enrollment in a PEBB health plan if they are enrolled ((in medical)) as a retiree or the dependent of a retiree ((enrolled)) in a federal retiree medical plan.

(c) Beginning January 1, 2006, retirees may defer enrollment in a PEBB health plan if they are enrolled in Medicare Parts A and B and a Medicaid program that provides creditable coverage as described in this chapter. The retiree's dependents may continue their PEBB health plan enrollment if they meet PEBB eligibility criteria and are not eligible for creditable coverage under a Medicaid program.

(d) Beginning January 1, 2014, retirees who are not eligible for Parts A and B of Medicare may defer enrollment in a PEBB health plan if they are enrolled in exchange coverage.

(3) To defer PEBB health plan enrollment, retiring employees or enrolled subscribers must submit the required forms to the PEBB program (~~(requesting to defer)~~).

(a) If retiring employees submit the required forms to defer enrollment in a PEBB health plan after their employer-paid ~~((~~☞~~))~~ coverage, COBRA coverage, or continuation coverage ends as described in WAC 182-12-171 (1)~~((~~☞~~))~~ (b), enrollment will be deferred the first of the month following the date their employer-paid ~~((~~☞~~))~~ coverage, COBRA coverage, or continuation coverage ends. The forms must be received by the PEBB program no later than sixty days after the employer-paid ~~((~~☞~~))~~ coverage, COBRA coverage, or continuation coverage ends.

(b) If enrolled subscribers submit the required forms to defer enrollment in a PEBB health plan, enrollment will be deferred effective the first of the month following the date ~~((their deferral))~~ the required form is received by the PEBB program. If the form is received on the first day of the month, coverage will end on the last day of the previous month.

(4) Retirees who defer enrollment while enrolled in coverage described in subsection (2)(a) through (d) of this section and lose such coverage must enroll in a PEBB retiree health plan as described in WAC 182-12-171 or defer enrollment as described in this section or WAC 182-12-200.

(5) Retirees who meet substantive eligibility requirements in WAC 182-12-171(2) and whose employer-paid coverage, COBRA coverage, or continuation coverage ended between January 1, 2001, and December 31, 2001, was not required to submit the deferral form at that time, but must have met all procedural requirements as stated in this section, WAC 182-12-171, and 182-12-200.

~~((4))~~ (6) Retirees who defer may later enroll themselves and their dependents in a PEBB health plan as follows:

(a) Retirees who defer enrollment while enrolled in employer-based group medical insurance, or such medical insurance continued under COBRA coverage or continuation coverage may enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment in such coverage to the PEBB program:

(i) During the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When their employer-based group medical insurance or such coverage under COBRA coverage or continuation coverage ends. The required ~~((enrollment))~~ form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after the employer-based group medical insurance ~~((~~☞~~))~~ coverage, COBRA coverage, or continuation coverage ends.

(b) Retirees who defer enrollment while enrolled as a retiree or dependent of a retiree in a federal retiree medical plan will have a one-time opportunity to enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment in such coverage to the PEBB program:

(i) During the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When the federal retiree medical plan coverage ends. The required ~~((enrollment))~~ form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after coverage under the federal retiree medical plan ends.

(c) Retirees who defer enrollment while enrolled in medicare Parts A and B and a medicaid program that provides creditable coverage as described in this chapter may enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment in ~~((creditable))~~ such coverage to the PEBB program:

(i) During the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When their medicaid coverage ends. The required ~~((enrollment))~~ form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after the medicaid coverage ends; or

(iii) No later than the end of the calendar year when their medicaid coverage ends if the retiree was also determined eligible under 42 U.S.C. § 1395w-114 and subsequently enrolled in a medicare Part D plan. Enrollment in the PEBB health plan will begin January 1st following the end of the calendar year when the medicaid coverage ends. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the calendar year ~~((when))~~ in which the retiree's medicaid coverage ends.

(d) Retirees who defer enrollment while enrolled in exchange coverage will have a one-time opportunity to enroll or reenroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment in such coverage to the PEBB program:

(i) During the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When exchange coverage ends. The required ~~((enrollment))~~ form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after exchange coverage ends.

(e) Retirees who defer enrollment may enroll in a PEBB health plan if the retiree receives formal notice that the authority has determined it is more cost-effective to enroll the retiree or the retiree's eligible ~~((dependent(s)))~~ dependents in PEBB medical than a medical assistance program.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-208 What are the requirements regarding enrollment in dental under public employees benefits board (PEBB) retiree insurance coverage? The following provisions apply to a subscriber and his or her dependents enrolled under public employees benefits board (PEBB) retiree insurance coverage:

(1) A subscriber and his or her dependents enrolling in dental must meet procedural requirements (as described in WAC 182-12-171(1) and 182-12-262) and eligibility requirements (as described in WAC 182-12-171(2) and 182-12-260).

(2) A subscriber and his or her dependents must be enrolled in medical to enroll in dental.

(3) A subscriber enrolling in dental must stay enrolled for at least two years before dental can be dropped unless he or she defers medical and dental coverage as described in WAC 182-12-200 or 182-12-205, or drops dental as described in subsection (4) of this section.

(4) A subscriber enrolled in PEBB dental who becomes eligible for, and enrolls in, employer-based group dental insurance as an employee or the dependent of an employee, or such coverage (~~((continued))~~ under ~~((COBRA,))~~ Consolidated Omnibus Budget Reconciliation Act (COBRA) or continuation coverage may drop PEBB dental, before completing the two-year enrollment requirement. ~~((The subscriber and enrolled dependents will be removed from PEBB dental))~~ Coverage will end on the last day of the month ((following the date)) in which the required ~~((enrollment))~~ form is received by the PEBB program. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

(a) A subscriber may enroll in PEBB dental during the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB dental begins January 1st of the following year.

(b) A subscriber may enroll in PEBB dental after his or her employer-based group dental insurance or such coverage under COBRA coverage or continuation coverage ends. The required ~~((enrollment))~~ form must be received by the PEBB program no later than sixty days after such coverage ends. PEBB dental begins the first day of the month after the employer-based group dental insurance or coverage under COBRA ends.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-211 May an employee who is determined to be retroactively eligible for disability retirement enroll in public employees benefits board (PEBB) retiree insurance coverage? (1) An employee who is determined to be retroactively eligible for a disability retirement is eligible to enroll or defer enrollment (as described in WAC 182-12-200 or 182-12-205) in public employees benefits board (PEBB) retiree insurance coverage if:

(a) The employee submits the required form and a copy of the formal determination letter he or she received from the

Washington state department of retirement systems (DRS) or the appropriate higher education authority;

(b) The employee's ~~((enrollment))~~ form and a copy of his or her Washington state-sponsored retirement system's formal determination letter are received by the PEBB program no later than sixty days after the date on the determination letter; and

(c) The employee immediately begins to receive a monthly pension benefit or a supplemental retirement plan benefit under his or her higher education retirement plan (HERP), with exceptions described in WAC 182-12-171 (2)~~(b)~~.

(2) Premiums are due from the effective date of enrollment in PEBB retiree insurance coverage. The employee, at his or her option, must indicate the effective date of PEBB retiree insurance coverage on the ~~((enrollment))~~ form. The employee may choose from the following dates:

(a) The employee's retirement date as stated in the formal determination letter; or

(b) The first day of the month following the date the formal determination letter was written.

(3) The director may make an exception to the date PEBB retiree insurance coverage begins; however, such request must demonstrate extraordinary circumstances beyond the control of the retiree.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-250 Insurance coverage eligibility for survivors of emergency service personnel killed in the line of duty. Surviving spouses, state registered domestic partners, and dependent children of emergency service personnel who are killed in the line of duty are eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage.

(1) This section applies to the surviving spouse, the surviving state registered domestic partner, and dependent children of emergency service personnel "killed in the line of duty" as determined by the Washington state department of labor and industries.

(2) "Emergency service personnel" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010.

(3) "Surviving spouse, state registered domestic partner, and dependent children" means:

(a) A lawful spouse;

(b) An ex-spouse as defined in RCW 41.26.162;

(c) A state registered domestic partner as defined in RCW 26.60.020(1); and

(d) Children. The term "children" includes children of the emergency service worker up to age twenty-six. Children with disabilities as defined in RCW 41.26.030(6) are eligible at any age. "Children" is defined as:

(i) Biological children (including the emergency service worker's posthumous children);

(ii) Stepchildren or children of a state registered domestic partner;

- (iii) Legally adopted children;
 - (iv) Children for whom the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of the child;
 - (v) Children specified in a court order or divorce decree;
- or
- (vi) Children as defined in RCW 26.26.101.
- (4) Surviving spouses, state registered domestic partners, and children who are entitled to medicare must enroll in both parts A and B of medicare.
- (5) The survivor (or agent acting on his or her behalf) must submit the required forms to the PEBB program to either enroll or defer enrollment in retiree insurance coverage as described in subsection (7) of this section. The forms must be received by the PEBB program no later than one hundred eighty days after the later of:
- (a) The death of the emergency service worker;
 - (b) The date on the letter from the department of retirement systems or the board for volunteer firefighters and reserve officers that informs the survivor that he or she is determined to be an eligible survivor;
 - (c) The last day the surviving spouse, state registered domestic partner, or child was covered under any health plan through the emergency service worker's employer; or
 - (d) The last day the surviving spouse, state registered domestic partner, or child was covered under the Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage from the emergency service worker's employer.
- (6) Survivors who do not choose to defer enrollment in retiree insurance coverage may choose among the following options for when their enrollment in a PEBB health plan will begin:
- (a) June 1, 2006, for survivors whose required forms are received by the PEBB program no later than September 1, 2006;
 - (b) The first of the month that is not earlier than sixty days before the date that the PEBB program receives the required forms (for example, if the PEBB program receives the required forms on August 29, the survivor may request health plan enrollment to begin on July 1); or
 - (c) The first of the month after the date that the PEBB program receives the required forms.
- For surviving spouses, state registered domestic partners, and children who enroll, monthly health plan premiums must be paid by the survivor except as provided in RCW 41.26.510(5) and 43.43.285 (2)(b).
- (7) Survivors must choose one of the following two options to maintain eligibility for retiree insurance coverage:
- (a) Enroll in a PEBB health plan:
 - (i) Enroll in medical; or
 - (ii) Enroll in medical and dental.
 - (iii) Survivors enrolling in dental must stay enrolled for at least two years before dental can be dropped, unless they defer medical and dental coverage as described in WAC 182-12-205, or drop dental as described in WAC 182-12-208(4).
 - (iv) Dental only is not an option.
 - (b) Defer enrollment:
 - (i) Survivors may defer enrollment in a PEBB health plan if continuously enrolled in other coverage as described in WAC 182-12-205 (2).

(ii) Survivors may enroll in a PEBB health plan as described in WAC 182-12-205(4) when they lose other coverage. Survivors must provide evidence that they were continuously enrolled in other such coverage when enrolling in a PEBB health plan. The required (~~enrollment~~) form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends.

(iii) PEBB health plan enrollment and premiums will begin the first day of the month following the day that the other coverage ended for eligible spouses and children who enroll.

(8) Survivors may change their health plan during annual open enrollment. In addition to annual open enrollment, survivors may change health plans as described in WAC 182-08-198.

(9) Survivors will lose their right to enroll in retiree insurance coverage if they:

(a) Do not apply to enroll or defer PEBB health plan enrollment within the timelines (~~stated~~) as described in subsection (5) of this section; or

(b) Do not maintain continuous enrollment in other coverage during the deferral period, as (~~provided~~) described in subsection (7)(b)(i) of this section.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-260 Who are eligible dependents? To be enrolled in a health plan, a dependent must be eligible under this section and the subscriber must comply with enrollment procedures outlined in WAC 182-12-262.

The public employees benefits board (PEBB) program verifies the eligibility of all dependents and (~~reserves the right to~~) will request documents from subscribers that provide evidence of a dependent's eligibility. The PEBB program will remove a subscriber's enrolled dependents from health plan enrollment if the PEBB program is unable to verify a dependent's eligibility. The PEBB program will not enroll or reenroll dependents into a health plan if the PEBB program is unable to verify a dependent's eligibility.

The subscriber must notify the PEBB program, in writing, when his or her dependent is not eligible under this section. The notification must be received by the PEBB program no later than sixty days after the date his or her dependent is no longer eligible under this section. See WAC 182-12-262 (2)(a) for the consequences of not removing an ineligible dependent from insurance coverage.

The following are eligible as dependents:

(1) Lawful spouse. Former spouses are not eligible dependents upon finalization of a divorce or annulment, even if a court order requires the subscriber to provide health insurance for the former spouse.

(2) Registered domestic partner is defined to include the following:

(a) Effective January 1, 2010, a state registered domestic partner, as defined in RCW 26.60.020(1);

(b) A domestic partner who was qualified under PEBB eligibility criteria as a domestic partner before January 1,

2010, and was continuously enrolled under the subscriber in a PEBB health plan or life insurance; and

(c) Former registered domestic partners are not eligible dependents upon dissolution or termination of a partnership, even if a court order requires the subscriber to provide health insurance for the former partner.

(3) Children. Children are eligible up to ~~((age twenty-six))~~ the last day of the month in which their twenty-sixth birthday occurred except as described in (i) of this subsection. Children are defined as the subscriber's:

(a) Children as defined in RCW 26.26.101 establishment of parent-child relationship;

(b) Biological children, where parental rights have not been terminated;

(c) Stepchildren. The stepchild's relationship to a subscriber (and eligibility as a PEBB dependent) ends, for purposes of this rule, on the same date the subscriber's legal relationship with the spouse or registered domestic partner ends through divorce, annulment, dissolution, termination, or death;

(d) Legally adopted children;

(e) Children for whom the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of the child;

(f) Children of the subscriber's registered domestic partner;

(g) Children specified in a court order or divorce decree;

(h) Extended dependents in the legal custody or legal guardianship of the subscriber, the subscriber's spouse, or subscriber's registered domestic partner. The legal responsibility is demonstrated by a valid court order and the child's official residence with the custodian or guardian. "Children" does not include foster children for whom support payments are made to the subscriber through the state department of social and health services foster care program; and

(i) Children of any age with a developmental disability or physical handicap that renders the child incapable of self-sustaining employment and chiefly dependent upon the subscriber for support and maintenance provided such condition occurs before the age twenty-six:

(i) The subscriber must provide evidence of the disability and evidence that the condition occurred before age twenty-six;

(ii) The subscriber must notify the PEBB program, in writing, when his or her dependent is not eligible under this section. The notification must be received by the PEBB program no later than sixty days after the date that a child age twenty-six or older no longer qualifies under this subsection;

(iii) A child with a developmental disability or physical handicap who becomes self-supporting is not eligible under this subsection as of the last day of the month in which he or she becomes capable of self-support;

(iv) A child with a developmental disability or physical handicap age twenty-six and older who becomes capable of self-support does not regain eligibility under (i) of this subsection if he or she later becomes incapable of self-support;

(v) The PEBB program will periodically certify the eligibility of a dependent child with a disability beginning at age twenty-six, but no more frequently than annually after the two-year period following the child's twenty-sixth birthday.

(4) Parents.

(a) Parents covered under PEBB medical before July 1, 1990, may continue enrollment on a self-pay basis as long as:

(i) The parent maintains continuous enrollment in PEBB medical;

(ii) The parent qualifies under the Internal Revenue Code as a dependent of the subscriber;

(iii) The subscriber continues enrollment in insurance coverage; and

(iv) The parent is not covered by any other group medical plan.

(b) Parents eligible under this subsection may be enrolled with a different health plan than that selected by the subscriber. Parents may not add additional dependents to their insurance coverage.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-262 When may subscribers enroll or remove eligible dependents? (1) Enrolling dependents in public employees benefits board (PEBB) benefits. A dependent must be enrolled in the same health plan coverage as the subscriber, and the subscriber must be enrolled to enroll his or her dependent except as provided in WAC 182-12-205 (2)(c). Subscribers may enroll eligible dependents at the following times:

(a) **When the subscriber becomes eligible** and enrolls in public employees benefits board (PEBB) benefits. If eligibility is verified and the dependent is enrolled, the dependent's effective date will be the same as the subscriber's effective date.

(b) **During the annual open enrollment.** PEBB health plan coverage begins January 1st of the following year.

(c) **During special open enrollment.** Subscribers may enroll dependents during a special open enrollment as described in subsection (3) of this section. The subscriber must satisfy the enrollment requirements as described in subsection (4) of this section.

(2) **Removing dependents from a subscriber's health plan coverage.**

(a) **A dependent's eligibility for enrollment in health plan coverage ends the last day of the month the dependent meets the eligibility criteria in WAC 182-12-250 or 182-12-260.** Employees must notify their employing agency when a dependent is no longer eligible. All other subscribers must notify the PEBB program when a dependent is no longer eligible. Consequences for not submitting notice within sixty days of the last day of the month the dependent loses eligibility for health plan coverage may include, but are not limited to:

(i) The dependent may lose eligibility to continue health plan coverage under one of the continuation coverage options described in WAC 182-12-270;

(ii) The subscriber may be billed for claims paid by the health plan for services that were rendered after the dependent lost eligibility;

(iii) The subscriber may not be able to recover subscriber-paid insurance premiums for dependents that lost their eligibility; and

(iv) The subscriber may be responsible for premiums paid by the state for the dependent's health plan coverage after the dependent lost eligibility.

(b) Employees have the opportunity to remove dependents:

(i) During the annual open enrollment. The dependent will be removed the last day of December; or

(ii) During a special open enrollment as described in subsections (3) and (4)(f) of this section.

(c) Retirees, survivors, and enrollees with PEBB continuation coverage under WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, or 182-12-148 may remove dependents from their insurance coverage outside of the annual open enrollment or a special open enrollment by providing written notice to the PEBB program. Unless otherwise approved by the PEBB program, the dependent will be removed from the subscriber's insurance coverage prospectively. Insurance coverage will end on the last day of the month in which the written notice is received by the PEBB program. If the written notice is received on the first day of the month, coverage will end on the last day of the previous month.

(3) Special open enrollment. Subscribers may enroll or remove their dependents outside of the annual open enrollment if a special open enrollment event occurs. The change in enrollment must correspond to and be consistent with the event that creates the special open enrollment for the subscriber, the subscriber's dependents, or both.

- Health plan coverage will begin the first of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the change in enrollment begins on that day.

- Enrollment of an extended dependent((s)) or a dependent((s)) with a disability will be the first day of the month following eligibility certification.

- The dependent((s)) will be removed from the subscriber's health plan coverage the last day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

- If the special open enrollment is due to the birth or adoption of a child, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of a child, health plan coverage will begin or end the month in which the event occurs.

Any one of the following events may create a special open enrollment:

(a) Subscriber acquires a new dependent due to:

(i) Marriage or registering a domestic partnership;

(ii) Birth, adoption, or when a subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship; or

(iv) A child becoming eligible as a dependent with a disability;

(b) Subscriber or a subscriber's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) Subscriber or a subscriber's dependent has a change in employment status that affects the subscriber's or the subscriber's dependent's eligibility for their employer contribution toward employer-based group health insurance;

(d) Subscriber or a subscriber's dependent has a change in enrollment under another employer-based group health insurance plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(e) Subscriber's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States;

(f) A court order or national medical support notice (see also WAC 182-12-263) requires the subscriber or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former registered domestic partner is not an eligible dependent);

(g) Subscriber or a subscriber's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(h) Subscriber or a subscriber's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or a state children's health insurance program (CHIP).

(4) Enrollment requirements. A subscriber((s)) must submit the required ((enrollment)) forms within the time frames described in this subsection. Employees submit the required forms to their employing agency. All other subscribers submit the required forms to the PEBB program. In addition to the required forms indicating dependent enrollment, the subscriber must provide the required documents as evidence of the dependent's eligibility; or as evidence of the event that created the special open enrollment.

(a) If a subscriber wants to enroll his or her eligible ((dependent(s))) dependents when the subscriber becomes eligible to enroll in PEBB benefits, the subscriber must include the dependent's enrollment information on the required forms that the subscriber submits within the relevant time frame described in WAC 182-08-197, 182-08-187, 182-12-171, or 182-12-250.

(b) If a subscriber wants to enroll eligible dependents during the PEBB annual open enrollment period, the required forms must be received no later than the last day of the annual open enrollment.

(c) If a subscriber wants to enroll newly eligible dependents, the required ((enrollment)) forms must be received no later than sixty days after the dependent becomes eligible except as provided in (d) of this subsection.

(d) If a subscriber wants to enroll a newborn or child whom the subscriber has adopted or has assumed a legal obligation for total or partial support in anticipation of adoption, the subscriber should notify the PEBB program by submitting ((an enrollment)) the required form as soon as possible to ensure timely payment of claims. If adding the child increases the premium, the required ((enrollment)) form must be received no later than twelve months after the date of the birth, adoption, or the date the legal obligation is assumed for total or partial support in anticipation of adoption.

(e) If the subscriber wants to enroll a child age twenty-six or older as a child with a disability, the required ~~((form(s)))~~ forms must be received no later than sixty days after the last day of the month in which the child reaches age twenty-six or within the relevant time frame described in WAC 182-12-262 (4)(a), (b), and (f).

(f) If the subscriber wants to change a dependent's enrollment status during a special open enrollment, required forms must be received no later than sixty days after the event that creates the special open enrollment.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-12-263 National Medical Support Notice (NMSN) ~~((or court order))~~. When a National Medical Support Notice (NMSN) ~~((or court order))~~ requires a subscriber to provide health plan coverage for a dependent child the following provisions apply:

(1) The subscriber may enroll his or her dependent child and request changes to his or her health plan coverage as described under subsection (3) of this section. Employees submit the required forms to their employing agency. All other subscribers submit the required forms to the public employees benefits board (PEBB) program.

(2) If the subscriber fails to request enrollment or health plan coverage changes as directed by the NMSN ~~((or court order))~~, the employing agency or the PEBB program may make enrollment or health plan coverage changes according to subsection (3) of this section upon request of:

- (a) The child's other parent; or
- (b) Child support enforcement program.

(3) Changes to health plan coverage or enrollment are allowed as directed by the NMSN ~~((or court order))~~:

(a) The dependent will be enrolled under the subscriber's health plan coverage as directed by the NMSN ~~((or court order))~~;

(b) An employee who has waived PEBB medical under WAC 182-12-128 will be enrolled in medical as directed by the NMSN ~~((or court order))~~, in order to enroll the dependent;

(c) The subscriber's selected health plan will be changed if directed by the NMSN ~~((or court order))~~;

(d) If the dependent is already enrolled under another PEBB subscriber, the dependent will be removed from the other health plan coverage and enrolled as directed by the NMSN ~~((or court order))~~.

(4) Changes to health plan coverage or enrollment as described in subsection (3)(a) through (c) of this section will begin the first day of the month following receipt of the NMSN ~~((or court order))~~. If the NMSN ~~((or court order))~~ is received on the first day of the month, the change to health plan coverage or enrollment begins on that day. A dependent will be removed from the subscriber's health plan coverage as described in subsection (3)(d) of this section the last day of the month the NMSN ~~((or court order))~~ is received. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

(5) The subscriber may be eligible to make changes to his or her health plan enrollment and salary reduction elections during a special open enrollment related to the NMSN

as described in WAC 182-08-198(2), 182-08-199(3), 182-12-128(4), or 182-12-262(3).

AMENDATORY SECTION (Amending WSR 14-08-040, filed 3/26/14, effective 4/26/14)

WAC 182-12-300 Public employees benefits board (PEBB) wellness incentive program eligibility and procedural requirements. The public employees benefits board (PEBB) annually determines the design of the PEBB wellness incentive program.

(1) All subscribers, except PEBB subscribers who are enrolled in both medicare parts A and B, and in the medicare risk pool, are eligible to participate in the PEBB wellness incentive program.

(2) To receive a PEBB wellness incentive for the ~~((following))~~ 2016 plan year, eligible subscribers must complete PEBB wellness incentive program requirements during 2015 by the latest date below:

(a) For subscribers continuing enrollment in PEBB medical and subscribers enrolling in PEBB medical with an effective date in January, February, or March, the deadline is June 30th; or

~~((Within sixty days after their effective date of PEBB medical, but no later than December 31st.~~

~~((3)))~~ For subscribers enrolling in PEBB medical with an effective date in April, May, June, July, or August, the deadline is one hundred twenty days from the subscriber's PEBB medical effective date; or

(c) For subscribers enrolling in PEBB medical with an effective date in September, October, November, or December, the deadline is December 31st.

(3) Effective January 1, 2016, to receive a PEBB wellness incentive for the following plan year, eligible subscribers must complete PEBB wellness incentive program requirements during the current plan year by the latest date below:

(a) For subscribers continuing enrollment in PEBB medical and subscribers enrolling in PEBB medical with an effective date in January, February, March, April, May, or June the deadline is September 30th; or

(b) For subscribers enrolling in PEBB medical with an effective date in July or August, the deadline is one hundred twenty days from the subscriber's PEBB medical effective date; or

(c) For subscribers enrolling in PEBB medical with an effective date in September, October, November, or December, the deadline is December 31st.

(4) Subscribers who do not complete the requirements ~~((of))~~ according to subsection (2) or (3) of this section, except as noted, within the time frame described are not eligible to receive a PEBB wellness incentive the following plan year.

Note: All eligible subscribers can earn a wellness incentive. Subscribers who cannot complete the wellness incentive program requirements may be able to earn the same incentive by different means. The PEBB program will work with enrollees (and their physician, if they wish) to define an individual wellness program that provides the opportunity to qualify for the same incentive in light of the enrollee's health status.

~~((4)))~~ (5) A PEBB wellness incentive will be provided only if:

(a) The subscriber is still eligible for the PEBB wellness incentive program in the year the incentive applies;

(b) The funding rate provided by the legislature is designed to provide a PEBB wellness incentive program or a PEBB wellness incentive, or both; or

~~((b))~~ (c) Specific appropriations are provided for wellness incentives.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-16-020 Definitions. As used in this chapter the term:

"Authority" or "HCA" means the health care authority.

"Business days" means all days except Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Continuance" means a change in the date or time of a hearing.

"Denial" or "denial notice" means an action by, or communication from, either an employing agency, or the PEBB program that aggrieves an employee, or his or her dependent, with regard to PEBB benefits including, but not limited to, actions or communications expressly designated as a "denial," "denial notice," or "cancellation notice."

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260, except that "surviving spouses, state registered domestic partners, and dependent children" of emergency service personnel who are killed in the line of duty is defined in WAC 182-12-250.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, e-mails, electronic files, or other printed or written items.

"Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021 (1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the pur-

pose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

"Employer-based group medical insurance" means group medical insurance coverage related to a current employment relationship. It does not include medical insurance coverage available to retired employees, individual market medical insurance coverage, or government-sponsored programs such as medicare or medicaid.

"Employer group" means those (~~employee organizations representing state civil service employees,~~) counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, (~~charter schools, and~~) educational service districts (~~(participating in PEBB insurance coverage under contractual agreement)~~), and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority as described in WAC 182-08-245.

"Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; or a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Final order" means an order that is the final PEBB program decision.

"Health plan" means a plan offering medical or dental, or both, developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Hearing" means a proceeding before a presiding officer that gives a party an opportunity to be heard in a dispute about a decision made by the PEBB appeals committee, including prehearing conferences, dispositive motion hearings, status conferences, and evidentiary hearings.

"Hearing representative" means a person who is authorized to represent the PEBB program in an administrative hearing. The person may be an assistant attorney general, a licensed attorney, or authorized HCA employee.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and the state board for community and technical colleges.

"Insurance coverage" means any health plan, life insurance, long-term care insurance, long-term disability (LTD) insurance, or property and casualty insurance administered as a PEBB benefit.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Mail" or "mailing" means placing a document in the United States Postal system, commercial delivery service, or Washington state consolidated mail services properly addressed.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"PEBB" means the public employees benefits board.

"PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB benefits by the PEBB program. The director has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.

"PEBB benefits" means one or more insurance coverages or other employee benefits administered by the PEBB program within the health care authority.

"PEBB program" means the program within the HCA (~~which~~) that administers insurance and other benefits for eligible employees (as ~~(defined)~~ described in WAC 182-12-114), eligible retired and disabled employees (as ~~(defined)~~ described in WAC 182-12-171), eligible dependents (as ~~(defined)~~ described in WAC 182-12-250 and 182-12-260), and others as defined in RCW 41.05.011.

"Prehearing conference" means a proceeding scheduled and conducted by a presiding officer to address issues in preparation for a hearing.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's premium contribution, due to an enrollee's tobacco use or a subscriber's spouse or registered domestic partner choosing not to enroll in his or her employer-based group medical insurance when:

- Premiums are less than ninety-five percent of Uniform Medical Plan (UMP) Classic premiums; and
- The actuarial value of benefits is at least ninety-five percent of the actuarial value of UMP Classic benefits.

"Presiding officer" means an impartial decision maker who is an attorney, presides at an administrative hearing, and

is either a director designated HCA employee or an administrative law judge employed by the office of administrative hearings.

"Record" means the official documentation of the hearing process. The record includes recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the DCAP, medical FSA, or premium payment plan as authorized in chapter 41.05 RCW.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"Subscriber" means the employee, retiree, COBRA beneficiary or eligible survivor who has been designated by the HCA as the individual to whom the HCA and contracted vendors will issue all notices, information, requests and premium bills on behalf of enrollees.

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, chewing tobacco, snuff, and other tobacco products. It does not include United States Food and Drug Administration (FDA) approved quit aids or e-cigarettes until their tobacco related status is determined by the FDA.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-16-036 How can an employee who is eligible to participate in the state's salary reduction plan appeal a decision regarding the administration of benefits offered under the state's salary reduction plan? (1) Any employee who is eligible to participate in the state's salary reduction plan who disagrees with a decision that denies eligibility for or enrollment in a benefit offered under the state's salary reduction plan may appeal that decision (~~(to the public employees benefits board (PEBB) appeals committee. The PEBB appeals manager)~~) by submitting a written request for review to his or her state agency. The state agency must receive the (~~(notice of appeal)~~) request for review no later than thirty days after the date of the initial denial notice (~~(by the PEBB program)~~). The contents of the (~~(notice of appeal)~~) request for review are to be provided (~~(in accordance with)~~) as described in WAC 182-16-040.

(a) Upon receiving the request for review, the state agency shall make a complete review of the initial denial by one or more staff who did not take part in the initial denial. As part of the review, the state agency may hold a formal meeting or hearing, but is not required to do so.

(b) The state agency shall render a written decision within thirty days of receiving the request for review. The written decision shall be sent to the employee.

(c) A copy of the state agency's written decision shall be sent to the state agency's administrator or designee and to the public employees benefits board (PEBB) appeals manager. The state agency's written decision shall become the state agency's final decision effective fifteen days after the date it is rendered.

(d) Any employee who disagrees with the state agency's decision in response to a request for review, as described in subsection (1) of this section, may appeal that decision by submitting a notice of appeal to the PEBB appeals committee. The PEBB appeals manager must receive the notice of appeal no later than thirty days after the date of the state agency's written decision on the request for review.

The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

(e) The PEBB appeals manager shall notify the appellant in writing when the notice of appeal has been received.

~~((b))~~ (f) The PEBB appeals committee shall render a written decision to the appellant within thirty days of receiving the notice of appeal. The committee may extend the thirty-day time requirement for rendering a decision upon issuing a written finding of a good reason explaining the cause for the delay.

~~((c))~~ (g) Any appellant who disagrees with the decision of the PEBB appeals committee may request an administrative hearing, as described in WAC 182-16-050.

(2) Any employee who is eligible to participate in the state's salary reduction plan aggrieved by a decision regarding a claim for benefits under the medical flexible spending arrangement (FSA) and dependent care assistance program (DCAP) offered under the state's salary reduction plan may appeal that decision to the third-party administrator contracted to administer the plan by following the appeal process of the third-party administrator.

Any employee who is eligible to participate in the state's salary reduction plan who disagrees with a decision in response to an appeal filed with the third-party administrator that administers the medical FSA and DCAP under the state's salary reduction plan may appeal to the PEBB appeals committee. The PEBB appeals manager must receive the notice of appeal no later than thirty days after the date of the appeal decision by the third-party administrator that administers the medical FSA and DCAP. The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

(a) The PEBB appeals manager shall notify the appellant in writing when the notice of appeal has been received.

(b) The PEBB appeals committee shall render a written decision to the appellant within thirty days of receiving the notice of appeal. The committee may extend the thirty-day time requirement for rendering a decision upon issuing a written finding of a good reason explaining the cause for the delay.

(c) Any appellant who disagrees with the decision of the PEBB appeals committee may request an administrative hearing, as described in WAC 182-16-050.

(3) Any employee who is eligible to participate in the state's salary reduction plan aggrieved by a decision regarding the administration of the premium payment plan offered under the state's salary reduction plan may appeal that decision to the PEBB appeals committee. The PEBB appeals manager must receive the notice of appeal no later than thirty days after the date of the denial notice by the PEBB program. The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

(a) The PEBB appeals manager shall notify the appellant in writing when the notice of appeal has been received.

(b) The PEBB appeals committee shall render a written decision to the appellant within thirty days of receiving the notice of appeal. The committee may extend the thirty-day time requirement for rendering a decision upon issuing a written finding of a good reason explaining the cause for the delay.

(c) Any appellant who disagrees with the decision of the PEBB appeals committee may request an administrative hearing, as described in WAC 182-16-050.

AMENDATORY SECTION (Amending WSR 08-20-128, filed 10/1/08, effective 1/1/09)

WAC 182-16-040 What should the request for review or notice of appeal contain? A request for review or notice of appeal ~~((is to))~~ should contain all of the following:

- (1) The name and mailing address of the appealing party;
- (2) The name and mailing address of the appealing party's representative, if any;
- (3) Documentation, or reference to documentation, of decisions previously rendered through the appeal process, if any;
- (4) A statement identifying the specific portion of the decision being appealed and clarifying what is believed to be unlawful or in error;
- (5) A statement of facts in support of the appealing party's position;
- (6) Any information or documentation that the appealing party would like considered and substantiates why the decision should be reversed. Information or documentation submitted at a later date, unless specifically requested by the PEBB appeals manager, may not be considered in the appeal decision;
- (7) The type of relief sought;
- (8) A statement that the appealing party has read the notice of appeal and believes the contents to be true and correct; and
- (9) The signature of the appealing party or the appealing party's representative.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-16-073 Rescheduling and continuances.
(1) Any party may request the presiding officer to reschedule a hearing if a rule requires notice of a hearing and the amount of notice required was not provided.

(a) The presiding officer must reschedule the hearing under circumstances identified in this subsection (1) if requested by any party.

(b) The parties may agree to shorten the amount of notice required by any rule.

(2) Any party may request a continuance of a hearing either orally or in writing.

(a) ~~((Before contacting the presiding officer to request a continuance, the party seeking a continuance must contact the other parties, if possible, to find out if they will agree to a continuance.~~

~~(b) The party making the request for a continuance must let the presiding officer know whether the other parties agreed to the continuance. If the parties agree to a continuance, the presiding officer must grant the continuance. If the parties do not agree to a continuance, the presiding officer must schedule a prehearing conference in accordance with the requirements of WAC 182-16-071 to decide whether to grant the continuance.)~~ In each administrative hearing, the presiding officer must grant each party's first request for a continuance. The continuance may be up to thirty calendar days.

(b) The presiding officer may grant each party up to one additional continuance of up to thirty calendar days because of extraordinary circumstances.

(c) After granting a continuance, the presiding ~~officer must mail a new hearing notice at least fourteen calendar days before the new hearing date unless the parties agree to a shorter time period.~~

~~(d) If the presiding officer denies the continuance request after a prehearing conference is held pursuant to (b) of this subsection, the presiding officer must mail a written order setting forth the basis for denying the continuance request and may proceed with the hearing on the originally scheduled hearing date))~~ officer's office must:

(i) Immediately telephone all other parties to inform them the hearing was continued; and

(ii) Serve an order of continuance on the parties no later than fourteen days before the new hearing date. All orders of continuance must provide a new deadline for mailing documents to the presiding officer. The new mailing deadline can be no less than ten calendar days prior to the new hearing date. If the continuance is granted pursuant to (b) of this subsection, then the order of continuance must also include findings of fact that state with specificity the extraordinary circumstances for which the presiding officer granted the continuance.

(3) Regardless of whether a party has been granted a continuance as described in subsection (1) of this section, the presiding officer must grant a continuance if a new issue is raised during the hearing and a party requests a continuance.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

WAC 182-16-080 Determining if an administrative hearing right exists. (1) A party has a right to a hearing only if a law or program rule gives that right. If the party is not sure whether a hearing right exists, they may request a hearing to protect their rights.

(2) The right to a hearing does not exist unless:

(a) The public employees benefits board (PEBB) appeals committee has issued a written decision under WAC 182-16-030 (2)(b), 182-16-032(7), 182-16-035(4), 182-16-036(1)~~((b), (3)(b), (4))~~ (f), (2)(b), (3)(b), or 182-16-038(2); and

(b) A hearing of the PEBB appeals committee's written decision has been timely requested pursuant to WAC 182-16-050.

(3) If the hearing representative or the presiding officer questions the right to a hearing, the presiding officer must decide whether a hearing right exists, in a written ruling, prior to reviewing and ruling on any other issues.

(4) If the presiding officer decides a person or entity does not have a right to a hearing, the matter must be dismissed.

WSR 15-19-123

PROPOSED RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed September 21, 2015, 10:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-09-139.

Title of Rule and Other Identifying Information: WAC 246-918-410 Sexual misconduct, the medical quality assurance commission (commission) is proposing rule modification to sexual misconduct standards to clarify what forcible or nonconsensual acts are within the definition of sexual misconduct by an allopathic physician assistant.

Hearing Location(s): DoubleTree by Hilton, Airport/Southcenter, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on November 4, 2015, at 3:00 p.m.

Date of Intended Adoption: November 4, 2015.

Submit Written Comments to: Daidria Pittman, P.O. Box 47866, Olympia, WA 98504-7866, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Daidria Pittman by October 30, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule clarifies and updates the sexual misconduct rule to establish clearer standards of conduct for allopathic physician assistants under the commission's authority. It will also help allopathic physician assistants understand what constitutes sexual misconduct with any person including people who are not patients, clients, or key third parties that involves force, intimidation, lack of consent, or a conviction of a sex offense listed in RCW 9.94A.030.

Reasons Supporting Proposal: Over time the commission has realized a very serious category of sexual misconduct may not be captured by current rules; sexual misconduct by an allopathic physician assistant against a person other than a patient, client, or key party. Some examples include sexual harassment of staff, incest, or other sexual assaults against family members, social acquaintances, or strangers. Updating the sexual misconduct rule will establish clearer

standards of conduct and will help the commission be consistent in its enforcement activities to more fully comply with RCW 18.130.062 and Executive Order 06-03.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.062.

Statute Being Implemented: RCW 18.130.062.

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

Name of Proponent: Washington state department of health, medical quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Daidria Pittman, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2727; Implementation and Enforcement: Melanie de Leon, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2755.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(d), a small business economic impact statement is not required for proposed rules that only clarify the language of a rule without changing its effect.

A cost-benefit analysis is not required under RCW 34.05.328. The commission did not complete a cost-benefit analysis under RCW 34.05.328 (5)(b)(iv). Rule making that only clarifies language of a rule without changing its effect does not require a cost-benefit analysis.

September 19, 2015
Melanie de Leon
Executive Director

AMENDATORY SECTION (Amending WSR 06-03-028, filed 1/9/06, effective 2/9/06)

WAC 246-918-410 Sexual misconduct. (1) Definitions:

(a) "Patient" means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician assistant-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the physician assistant and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Physician assistant" means a person licensed to practice as a physician assistant under chapter 18.71A RCW.

(c) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians and proxies.

(2) A physician assistant shall not engage in sexual misconduct with a current patient or a key third party. A physician assistant engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party:

- (a) Sexual intercourse or genital to genital contact;
- (b) Oral to genital contact;
- (c) Genital to anal contact or oral to anal contact;
- (d) Kissing in a romantic or sexual manner;

(e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;

(f) Examination or touching of genitals without using gloves;

(g) Not allowing a patient the privacy to dress or undress;

(h) Encouraging the patient to masturbate in the presence of the physician assistant or masturbation by the physician assistant while the patient is present;

(i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;

(j) Soliciting a date;

(k) Engaging in a conversation regarding the sexual history, preferences or fantasies of the physician assistant.

(3) A physician assistant shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if the physician assistant:

(a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the physician assistant's personal or sexual needs.

(4) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(5) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors, including, but not limited to, the following:

- (a) Documentation of formal termination;
- (b) Transfer of the patient's care to another health care provider;
- (c) The length of time that has passed;
- (d) The length of time of the professional relationship;
- (e) The extent to which the patient has confided personal or private information to the physician assistant;
- (f) The nature of the patient's health problem;
- (g) The degree of emotional dependence and vulnerability.

~~((5))~~ (6) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

~~((6))~~ (7) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

~~((7))~~ (8) A violation of any provision of this rule shall constitute grounds for disciplinary action.

WSR 15-19-127
PROPOSED RULES
DEPARTMENT OF HEALTH
(Medical Quality Assurance Commission)
[Filed September 21, 2015, 10:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-22-047.

Title of Rule and Other Identifying Information: WAC 246-919-630 Sexual misconduct, the medical quality assurance commission (commission) is proposing rule modification to sexual misconduct standards to clarify what forcible or nonconsensual acts are within the definition of sexual misconduct by an allopathic physician.

Hearing Location(s): DoubleTree by Hilton, Airport/Southcenter, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on November 4, 2015, at 2:00 p.m.

Date of Intended Adoption: November 4, 2015.

Submit Written Comments to: Daidria Pittman, P.O. Box 47866, Olympia, WA 98504-7866, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Daidria Pittman by October 30, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule clarifies and updates the sexual misconduct rule to establish clearer standards of conduct for allopathic physicians under the commission's authority. It will also help allopathic physicians understand what constitutes sexual misconduct with any person including people who are not patients, clients, or key third parties that involves force, intimidation, lack of consent, or a conviction of a sex offense listed in RCW 9.94A.030.

Reasons Supporting Proposal: Over time the commission has realized a very serious category of sexual misconduct may not be captured by current rules; sexual misconduct by an allopathic physician against a person other than a patient, client, or key party. Some examples include sexual harassment of staff, incest, or other sexual assaults against family members, social acquaintances, or strangers. Updating the sexual misconduct rule will establish clearer standards of conduct and will help the commission be consistent in its enforcement activities to more fully comply with RCW 18.130.062 and Executive Order 06-03.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.062.

Statute Being Implemented: RCW 18.71.017 and 18.130.062.

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

Name of Proponent: Washington state department of health, medical quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Daidria Pittman, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2727; Implementation and Enforcement: Melanie de Leon, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2755.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(d), a small business economic impact statement is not required for proposed rules that only clarify the language of a rule without changing its effect.

A cost-benefit analysis is not required under RCW 34.05.328. The commission did not complete a cost-benefit analysis under RCW 34.05.328 (5)(b)(iv). Rule making that only clarifies language of a rule without changing its effect does not require a cost-benefit analysis.

September 19, 2015
Melanie de Leon
Executive Director

AMENDATORY SECTION (Amending WSR 06-03-028, filed 1/9/06, effective 2/9/06)

WAC 246-919-630 Sexual misconduct. (1) Definitions:

(a) "Patient" means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the physician and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Physician" means a person licensed to practice medicine and surgery under chapter 18.71 RCW.

(c) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians and proxies.

(2) A physician shall not engage in sexual misconduct with a current patient or a key third party. A physician engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party:

(a) Sexual intercourse or genital to genital contact;

(b) Oral to genital contact;

(c) Genital to anal contact or oral to anal contact;

(d) Kissing in a romantic or sexual manner;

(e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;

(f) Examination or touching of genitals without using gloves;

(g) Not allowing a patient the privacy to dress or undress;

(h) Encouraging the patient to masturbate in the presence of the physician or masturbation by the physician while the patient is present;

(i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;

(j) Soliciting a date;

(k) Engaging in a conversation regarding the sexual history, preferences or fantasies of the physician.

(3) A physician shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if the physician:

(a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the physician's personal or sexual needs.

(4) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(5) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors, including, but not limited to, the following:

(a) Documentation of formal termination;

(b) Transfer of the patient's care to another health care provider;

(c) The length of time that has passed;

(d) The length of time of the professional relationship;

(e) The extent to which the patient has confided personal or private information to the physician;

(f) The nature of the patient's health problem;

(g) The degree of emotional dependence and vulnerability.

~~((5))~~ (6) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

~~((6))~~ (7) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

~~((7))~~ (8) A violation of any provision of this rule shall constitute grounds for disciplinary action.

**WSR 15-19-131
PROPOSED RULES**

DEPARTMENT OF TRANSPORTATION

[Filed September 21, 2015, 1:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-21-149.

Title of Rule and Other Identifying Information: Chapter 468-06 WAC, Public access to information and records. We are updating the WAC to bring up to current laws and regulations. We are also updating the WAC to meet business needs.

Hearing Location(s): Washington State Department of Transportation (WSDOT), Nisqually Conference Room (1D2), Maple Park Avenue, Olympia, WA 98504, on October 29, 2015, at 1:00 p.m.

Date of Intended Adoption: October 29, 2015.

Submit Written Comments to: Robert Fossett, 310 Maple Park Avenue, P.O. Box 47409, Olympia, WA 98504, e-mail fossetr@wsdot.wa.gov, fax (360) 705-7714, by October 28, 2015.

Assistance for Persons with Disabilities: Contact Grant Heap by October 28, 2015, (360) 705-7760.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 468-06

WAC is being updated to bring up to current office practices and current laws under the Public Records Act. Changes have been made and simplified to current business practices to assist requestors to retrieve records from their public records requests. There are no anticipated negative effects since these rules are already governed by current state statutes. We are removing certain chapters to simplify and combine certain items to easily explain office procedures.

Reasons Supporting Proposal: To simplify the chapter and make it more understandable and to show current business practices.

Statutory Authority for Adoption: Chapter 42.56 RCW.

Statute Being Implemented: Chapter 42.56 RCW.

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

Name of Proponent: WSDOT, records management office, governmental.

Name of Agency Personnel Responsible for Drafting: Robert Fossett, 310 Maple Park Avenue, Olympia, WA, (360) 705-7714; Implementation and Enforcement: Kara Larsen, 310 Maple Park Avenue, Olympia, WA, (360) 705-6366.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule will not impact any small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. There is no financial impact due to the implication of this rule.

September 21, 2015

Kathryn W. Taylor

Assistant Secretary

AMENDATORY SECTION (Amending WSR 08-16-030, filed 7/29/08, effective 8/29/08)

WAC 468-06-010 (~~What is the purpose of this chapter?~~) Purpose. The purpose of this chapter is to(=

~~(1) Publish department of transportation organizational information.~~

~~(2) Establish the procedures we will follow to provide access to public records prepared, owned, used, or held by the department.)~~ provide rules for the Washington state department of transportation (the department), implementing the provisions of chapter 42.56 RCW that relate to requests for inspection and copying of public records.

AMENDATORY SECTION (Amending WSR 08-16-030, filed 7/29/08, effective 8/29/08)

WAC 468-06-020 (~~What definitions apply to public records?~~) Definitions. ((Definitions used in the Public Records Act, chapter 42.56 RCW, apply to these rules:)) (1)

"Denial" means the department withheld a record in part or in its entirety based on a statutory or other legal exemption.

(2) "Department" means the Washington state department of transportation.

(3) "Disclosure" means the existence of a record is revealed to a requestor in response to a PRA request, regardless of whether it is produced.

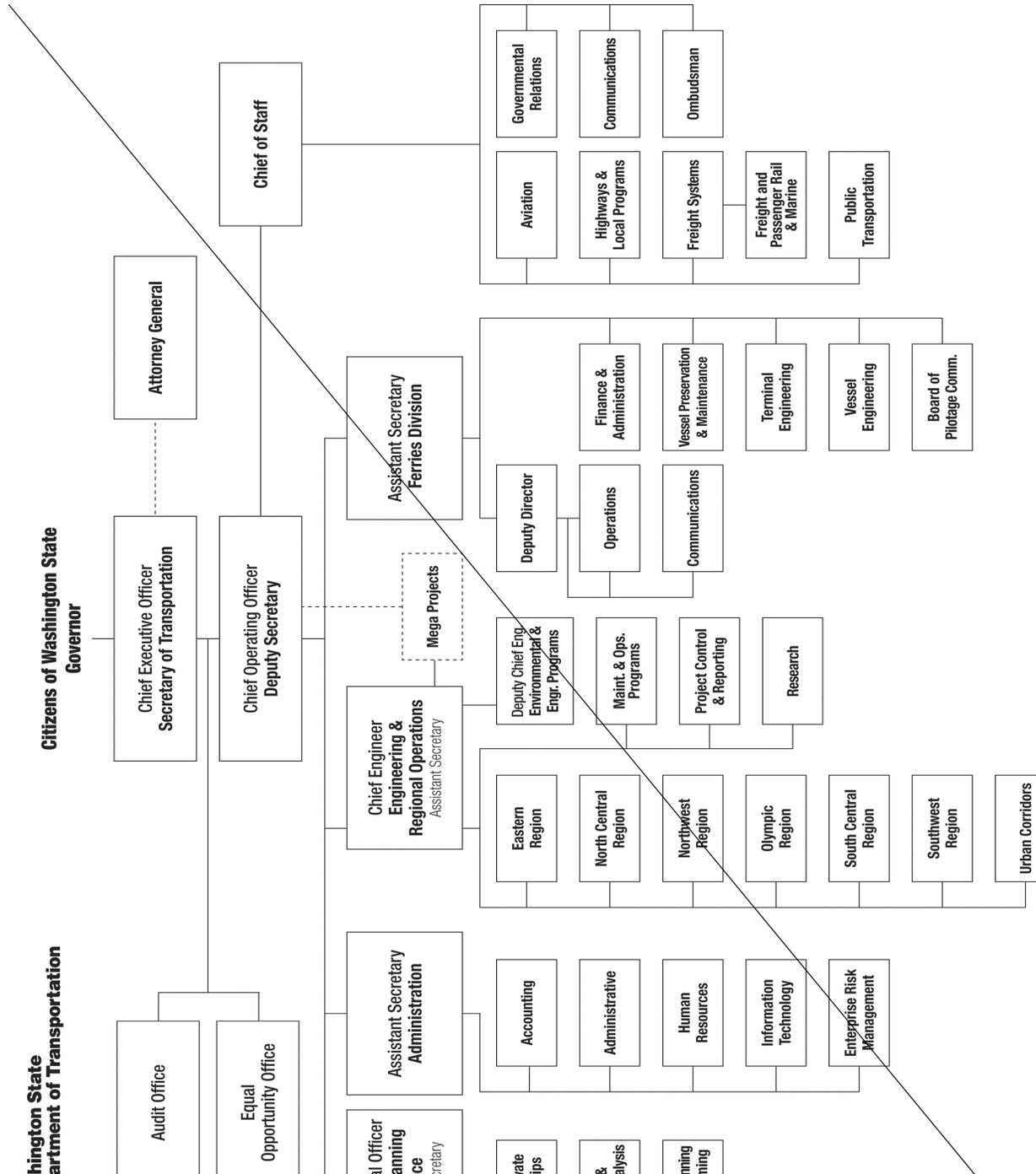
(4) "Production" means disclosed records are produced (made available for inspection and copying).

(5) "Public Records Act" or "PRA" means chapter 42.56 RCW.

AMENDATORY SECTION (Amending WSR 08-16-030, filed 7/29/08, effective 8/29/08)

WAC 468-06-040 ((How is the department of transportation organized?)) Organization of the department and records management and public disclosure office. ((The department of transportation is a statutorily created agency of the state of Washington. We have headquarters, division, and regional offices.

The department of transportation organization chart:



)

The department is a statutorily created agency of the state of Washington, with headquarters, division, and regional offices. The department's public records office is headed by the director of the torts, claims and records management division. Current organizational and contact information can be found on the records management and public disclosure web site at: <http://www.wsdot.wa.gov/Contact/PublicDisclosure>.

AMENDATORY SECTION (Amending WSR 08-16-030, filed 7/29/08, effective 8/29/08)

WAC 468-06-050 ((Who is the department's)) Public records officer((?)). ~~((1) The director of administrative services is the department's public records officer. The director is responsible for:~~

- ~~(a) Ensuring employees comply with department processes and procedures and state laws about public disclosure;~~
- ~~(b) Managing headquarters, regional, and division public disclosure coordinators and delegating responsibilities to them;~~
- ~~(c) Approving and signing public record exemption letters; and~~
- ~~(d) Contacting the attorney general's office for legal opinions on public record exemptions, subpoenas, and other legal matters.~~

~~(2) You may contact the headquarters public records officer at:~~

~~Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

Telephone: 360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov~~

~~(3) In the absence of the public records officer, the records manager performs the duties of the public records officer.~~

~~(4) A public disclosure coordinator is available in each region or division. Region and division contact information is available at www.wsdot.wa.gov.) The department's public records officer is designated by the department as the person responsible for implementing the department's rules and regulations, for acknowledging receipt of public records requests, and for coordinating with staff statewide to identify, gather, and release public records in compliance with the public records disclosure requirements.~~

AMENDATORY SECTION (Amending WSR 08-16-030, filed 7/29/08, effective 8/29/08)

WAC 468-06-060 ((How do I request a copy of a public record?)) Requesting public records. ~~((1) You may obtain a copy of a public record by submitting a written request to the department's public disclosure coordinator. See WAC 468-06-050. Coordinators will accept a letter, e-mail, fax, or department's request for public records form (722-023 EF).~~

~~You may obtain a copy of the form by calling or contacting a public disclosure coordinator or at www.wsdot.wa.gov.~~

~~(2) If you do not use the department's form, requests should:~~

- ~~(a) Provide the name, address, telephone number, and e-mail address of the person requesting the record.~~
- ~~(b) Provide the date and time of the request.~~
- ~~(c) Provide a clear description of the record. You should be as specific as possible. Public disclosure coordinators may ask you to explain or clarify your request because it is not specific enough.~~

~~(d) Indicate in the request that this is a "request for public records.")~~ (1) Submitting a request. Requests for public records must be submitted in writing. Requests can be made by:

(a) Completing the department's public records request form (DOT Form 722-023) which is available on the department's web site at www.wsdot.wa.gov; or

(b) A written request to the department that includes:

(i) The name, address, telephone number, and e-mail address of the person requesting the records;

(ii) The date and time of the request;

(iii) A description of the public records sought adequate for the department to identify and locate all responsive records;

(iv) Language stating that the request for records is intended as a public records request or a similar statement placing the department on fair notice that records are being sought under the PRA; and

(v) A statement indicating whether copies or the records are sought or if the requestor wants to arrange to inspect records.

Requests can be submitted to the department via e-mail, U.S. mail, hand delivery, or facsimile at:

Public Records Office
Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47410
Olympia, WA 98504-7300
E-mail: publicdiscosurerequests@wsdot.wa.gov
Facsimile: 360-705-6808

Failure to submit requests to the department at the above location may result in a delay in the department's response.

(2) Requested production. Nonexempt records are available through inspection, paper copies, or electronic copies. The requestor should indicate the production preference and make arrangements to pay the fees, if any.

AMENDATORY SECTION (Amending WSR 08-16-030, filed 7/29/08, effective 8/29/08)

WAC 468-06-080 ((How will the department respond to my public records request?)) Processing public records requests. ~~((1) A public disclosure coordinator will provide you with a written response within five business days of receiving your request for public records. An initial written response may:~~

- ~~(a) Acknowledge we have received the request and provide a reasonable estimate of the time it will take to respond and briefly explain the time estimate.)~~ (1) Initial response. The department will provide a written response within five

business days of receiving a request for public records. A business day is 8:00 a.m. to 5:00 p.m., Monday through Friday, exclusive of legal holidays. Legal holidays are prescribed in RCW 1.16.050. Requests received on a Saturday, Sunday, or a legal holiday, or after 5:00 p.m. on a business day, will be deemed received on the next day which is neither a Saturday, Sunday, nor a legal holiday.

An initial written response may:

(a) Acknowledge receipt of the request and provide a reasonable estimate of the time it will take to respond.

(i) Time estimates are based on many issues including the complexity of the request, clarity of the request, number of documents, location of documents, ~~determining if records are exempt, redaction~~(-legal issues, court decision, third-party involvement, or determining if records are exempt. In any case, coordinators will provide you a brief written explanation for the time necessary to respond to your request.

~~(ii) We may extend reasonable estimates when warranted. A public disclosure coordinator will contact you if this happens.))~~ requirements, third-party involvement, and court processes.

(ii) The department may extend time estimates when circumstances warrant.

(b) Provide the requestor the records.

(c) Ask for a better description of an unclear request.

(d) Provide part of the records and deny another part.

(e) Deny the request.

(2) ~~(We will take timely action on requests and make the records "promptly available.")~~ Inspection requests. The department will notify the requestor in writing when nonexempt records are ready for inspection. The requestor must schedule an appointment to inspect the records. A department staff person will remain with all public records during inspection. Reviewing time may be limited so as to avoid undue disruption to department business. Records are generally available for inspection and copying during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

(3) Paper requests. The department, upon payment of fees, if any, will send paper copies of nonexempt records to the requestor.

(4) Electronic requests. The department, upon payment of fees, if any, may scan records or copy nonexempt electronic records to a CD-ROM or DVD, send via e-mail, or post online for download.

(5) Installments. The department may provide records for inspection or copying in installments.

(6) Exemptions. When the department determines that a record is exempt from disclosure, either partially or entirely, the department will notify the requestor in writing. The notification will list each exempt record or portion thereof, the law that allows the exemption, and a brief explanation. The department will withhold the record entirely or will redact exempt portions and provide the nonexempt portions of the records. Exemptions are set out in chapter 42.56 RCW and any other applicable law.

(7) Court protection of records. The department may provide written notification to a department employee, a person, or a business named in a requested record or to whom a record specifically pertains and whose rights may be affected

by the release of the record. The department's written notification may:

(a) Identify the records requested and include the name and location of the requestor, when known.

(b) Advise the employee, person, or business that they may seek a court injunction in superior court in accordance with RCW 42.56.540.

(c) Inform the employee, person, or business of the date that the department will disclose the record to the requestor unless the employee, person, or business provides the department with a court order enjoining such disclosure.

(8) Review of denial of request.

(a) Petition for internal administrative review of denial of access. Any requestor who objects to the initial denial or partial denial of a records request may petition in writing to the department for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the department denying the request.

(b) Consideration of petition for review. The department will consider the petition and either affirm or reverse the denial within ten business days following receipt of the petition, or within such other time as the department and the requestor mutually agree to.

(c) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the department denies a requestor access to a public record because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office review the matter.

(d) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

(9) Closing request. The department will inform the requestor in writing and close the request when:

(a) The inspection of records is complete;

(b) All reasonably identifiable responsive nonexempt records have been provided; or

(c) The requestor fails to fulfill his or her obligations to inspect, download, or pay any required fee for the records.

AMENDATORY SECTION (Amending WSR 08-16-030, filed 7/29/08, effective 8/29/08)

WAC 468-06-090 ((What is the fee for obtaining a copy of a public record?)) Fees. ~~((1) The department will not charge you for any standard request of less than twenty-five copies. A standard request is a black and white copy on 8 1/2" x 11" plain white paper.~~

~~(2) You will be charged fifteen cents per page for all standard requests of twenty-five copies or more and the actual cost of all nonstandard requests. You may obtain a list of nonstandard costs from a public disclosure coordinator.~~

~~(3) A public disclosure coordinator will notify you by mail if there is a copying charge.~~

~~(4) The department will require full payment for all copying requests before providing the records.)~~ The department will notify the requestor of any fees associated with the request and requires full payment before providing records.

(1) Costs for paper and electronic copies.

(a) There is no fee for inspecting public records or e-mailing electronic records to a requestor, unless another cost applies, such as a scanning fee.

(b) The department will charge an amount necessary to reimburse its costs for providing paper and electronic copies of records, including costs for electronic copies on a CD-ROM or posting on online and scanning paper or other non-electronic records.

(c) The fee amounts shall be reviewed from time to time by the department, and shall represent the costs of providing copies of public records and for use of the department's equipment, including staff time spent copying or scanning records, preparing records for copying or scanning, and restoring files. This charge is the amount necessary to reimburse the department for its actual costs. The charge for special copy work of nonstandard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.

(d) The department may charge actual costs of mailing, including the cost of the shipping container.

(2) Waiver of fees. The department is authorized to waive any fees if the department determines it is cost effective to do so.

AMENDATORY SECTION (Amending WSR 08-16-030, filed 7/29/08, effective 8/29/08)

WAC 468-06-140 ~~((Does the department maintain a public records index?))~~ **Department index.** ~~((1) The department's records indexes are located in the records and information services office, transportation building, Olympia, Washington.~~

~~(2) The records officer is responsible for:~~

~~(a) Managing the index system.~~

~~(b) Coordinating all aspects of the index.~~

~~(c) Revising indexes when necessary.))~~ The department finds that it would be unduly burdensome and would interfere with department operations to maintain an index of records as specified in RCW 42.56.070 because of the complexity and diversity of its operations and the resulting volume of correspondence, reports, studies, and other materials.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|----------------|---|
| WAC 468-06-030 | What public records are exempt from public inspection and copying? |
| WAC 468-06-070 | When are public records available for inspection and copying? |
| WAC 468-06-100 | What are the rules for inspecting non-exempt public records? |
| WAC 468-06-110 | What happens if the department decides that all or part of a requested public record is exempt from disclosure? |

- | | |
|----------------|--|
| WAC 468-06-120 | How do I request that the department reconsider its decision to deny my request for public records? |
| WAC 468-06-125 | Will the department notify a person or business when a public records request may affect their rights and be potentially exempt? |
| WAC 468-06-130 | How do I request an electronic public record? |
| WAC 468-06-135 | Will the department provide an electronic copy of a printed public record? |
| WAC 468-06-150 | How long does the department keep requests for public records? |

WSR 15-19-132**PROPOSED RULES****WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD**

[Filed September 21, 2015, 2:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-102.

Title of Rule and Other Identifying Information: Chapter 490-105 WAC.

Hearing Location(s): Workforce Training and Education Coordinating Board, 128 10th Avenue S.W., 6th Floor, Main Conference Room, Olympia, WA 98501, on November 4, 2015, at 9:00 a.m. - 11:00 a.m.

Date of Intended Adoption: November 19, 2015.

Submit Written Comments to: Darlene Bartlett, Workforce Training and Education Coordinating Board, P.O. Box 43105, Olympia, WA 98504-3105, e-mail public-comment@wtb.wa.gov, fax (360) 586-5862, by November 6, 2015.

Assistance for Persons with Disabilities: Contact Darlene Bartlett, (360) 709-4605.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adopt new rules and/or revise existing rules that set standards for private vocational schools. The subjects under consideration are:

- (1) The implementation of the provisions of HB 2228 (2014).
- (2) Clarification of existing definitions and proposed new definitions.
- (3) Minimum licensing standards and continuing operation requirements.
- (4) Student complaint process.
- (5) Unfair business practices.

Reasons Supporting Proposal: This rule making is necessary to respond to the legislature's adoption of HB 2228 (2014) which changed the tuition recovery trust fund access for students' of private vocational schools. Additionally, revisions are necessary to address consumer protection issues identified in unfair business practice complaint reviews, to increase readability, and to clarify requirements.

Statutory Authority for Adoption: RCW 28C.10.040.

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

Name of Proponent: Workforce training and education coordinating board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jim Parker, 128 10th Avenue S.W., 6th Floor, Olympia, WA 98501, (360) 709-4625.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed regulations would have at most a minor impact on small businesses. The majority of schools currently licensed will not see an increase in licensing fees or tuition recovery trust fund payments.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not require cost-benefit analysis for rules of the workforce training and education coordinating board.

September 21, 2015
Jim Parker
Unit Manager

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-010 ((What is the purpose of these regulations?)) Purpose. These regulations are adopted under chapter 28C.10 RCW in order to establish procedures for the licensing and regulation of private vocational schools. (See RCW 28C.10.060.) Unless otherwise indicated, the workforce training and education coordinating board (agency), delegates authority for administering and interpreting the act and these rules to the executive director, who may further delegate as necessary and appropriate.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-030 ((How are words and phrases used in these rules?)) Definitions. ((1) The following clarifies the statutory exemptions under RCW 28C.10.030:

(a) "Avocational" or "recreational" means instruction that is primarily intended for leisure; it is not offered to provide a student with employable skills or competencies. Instruction offered as a prerequisite for a vocational program does not qualify for this exemption.

(b) "Entities not otherwise exempt offering only workshops or seminars lasting no longer than three calendar days" means instruction that can be completed within three eight-hour days. A vocational education program divided into a series of supplementary seminars does not qualify for this exemption.

(c) "Programs of continuing professional education" include:

(i) Review programs offered solely as preparation for tests leading to certification in specific disciplines but not offered to provide occupational competencies. For example, this exemption applies to test preparation programs that lead to: Certification by a state board of accountancy (CPA); certification by the institute of certified management accounting

(CMA); admission to practice before a state bar; certification in health occupations initiated by the American Medical Association, American Dental Association, and their respective professional auxiliaries; and, acquisition of other public certificates of convenience and necessity; and

(ii) Programs offered to conform with rules adopted by state agencies that require practitioners to undergo continuing professional education as a condition to renewing certification or licensure.

(2) The term "revoke" as used in RCW 28C.10.050(3) means an agency action that terminates a school's license. The agency's executive director or designee may revoke a school's license for just cause.

(3) The term "suspend" as used in RCW 28C.10.050(3) means an action by which the agency interrupts the school's authority to make offers of training. The agency's executive director or designee may suspend a school's license for just cause. An order of suspension prohibits the school from beginning instruction of new students for a maximum of thirty days. The school may remain in operation to continue training students in regular attendance on the date the suspension takes effect.

(4) The term "private vocational school" is further defined to include instruction at the postsecondary level that is intended for use by individuals who have either completed high school or are beyond the age of compulsory school attendance. Instruction or training offered to pre-kindergarten, kindergarten, elementary, or secondary school students is not encompassed by the act.

(5) "At risk" means the school demonstrates a pattern or history of one or more of the following conditions that the agency determines raise doubts for the continued successful and profitable operation of the organization:

(a) Failure to meet the standards of financial responsibility;

(b) Misrepresentation;

(c) A decrease in enrollment from the previous reporting period of fifty percent or more or twenty-five students, whichever is greater;

(d) Frequent substantiated complaints filed with the agency;

(e) Staff turnover from the previous year of fifty percent or more or three staff, whichever is greater; and

(f) Conditions listed in (c) and (e) of this subsection, caused by unusual circumstances, shall be evaluated by the agency and exceptions may be granted.

(6) "Distance education" means education provided by written correspondence or any electronic medium for students who are enrolled in a private vocational school in pursuit of an identified occupational objective, but are not attending classes at an approved site or training establishment.) In addition to the definitions in chapter 28C.10 RCW, the following definitions also apply in interpreting the act and the rules and regulations:

"Accreditation" is a status granted to a school by one or more of the accrediting organizations recognized and approved by the U.S. Secretary of Education. Accreditation is voluntary and does not imply automatic transfer of credits from one institution to another.

"Admission requirements" means the specific minimum criteria a school must use when accepting a student into the school.

"Auxiliary location" means a physical location where training occurs that is located at a reasonable distance from the main school address, for off-campus activities as part of a program. See WAC 490-105-060.

"Distance education" means education provided by written correspondence or any electronic medium for a student, who is enrolled in a private vocational school in pursuit of an occupational objective, does not include education provided primarily at an approved physical site or training establishment.

"Externship/internship" means an educational course which is offered as part of an educational program that includes on-the-job training.

"Just cause" means a reasonable and lawful basis for an agency action, supported by substantial evidence. Just cause requires a consideration of the following factors, with no single factor being determinative:

(a) Whether the school's conduct violated the Private Vocational Schools Act (chapter 28C.10 RCW), agency regulations (chapter 490-105 WAC), or other applicable legal requirements;

(b) Whether the school's conduct was consistent with its own policies, the terms of its catalogs or enrollment agreements, and other representations made by the school;

(c) Whether a violation was committed willfully, or with serious disregard for known risks;

(d) Whether the school has a history of substantiated violations;

(e) Whether the school's conduct was reasonable;

(f) Whether the school's conduct jeopardized the health, safety, or welfare of students or the public;

(g) Whether the school's conduct resulted in harm to persons or property;

(h) Whether there is an imminent risk of future harm to persons or property;

(i) Whether a complete investigation has been performed;

(j) Whether the agency's action is proportional to the school's conduct.

For the purpose of licensing, an "out-of-state" school is a school located outside of Washington that offers education solely outside of Washington or via distance education which solicits, recruits, and enrolls students in the state of Washington.

"Ownership" of a school means:

(a) In the case of a school owned by an individual, that individual sole proprietor;

(b) In the case of a school owned by a partnership, all full, silent, and limited partners having a ten percent or more ownership interest;

(c) In the case of a school owned by a corporation, the corporation, each corporate director, officer, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares;

"Physical presence" includes, but is not limited to, maintaining a mailing address within the state of Washington, the

presence of a facility or equipment; the presence of electronic, paper, and other records of records; the presence of a speaking agent, manager, resident director or similar administrator; the presence of direct advertising and marketing to Washington residents or field placements, including externships, clinicals, or practica as part of an educational program and taking place within the state of Washington.

"Private vocational school" is further defined to include instruction at the postsecondary level that is intended for use by individuals who have either completed high school or beyond the age of compulsory school attendance. Instruction or training offered to prekindergarten, kindergarten, elementary, or secondary school students is not encompassed by the act.

"Provisional license" means a short-term license issued with contingencies. The agency may issue a provisional license for good cause including, but not limited to:

(a) Satisfying the conditions of a corrective action plan after an "at-risk" determination;

(b) Protecting the health, safety, and welfare of students;

(c) Remediating a hardship for the school or students.

"Revoke" as used in RCW 28C.10.050(3) means an agency action that terminates a school's license. The agency's executive director or designee may revoke a school's license for just cause.

"Sponsored student" means a student whose tuition and fees are being paid, in whole or in part, by a sponsoring agency or business.

"Suspend" as used in RCW 28C.10.050(3) means an action by which the agency interrupts the school's authority to make offers of training. The agency's executive director or designee may suspend a school's license for just cause. An order of suspension prohibits the school from beginning instruction of new students for a maximum of thirty days. The school may remain in operation to continue training students in regular attendance on the date the suspension takes effect.

"Tuition" means the amount of money charged by schools to an individual student or their sponsor for an educational program. Monies paid pursuant to a written contract, negotiated between business organizations, to provide instruction exclusively to a cohort of an organization are not considered tuition, provided that costs are not charged to individuals.

"Washington resident" means an individual who has resided in Washington state for at least thirty days as determined by a driver's license, identification card, utility bill, or other documentation acceptable to the agency.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-040 (~~What does it take to obtain a private vocational school license?~~) Initial school licensure requirements. (See RCW 28C.10.050 and 28C.10-060.) An entity (~~that wishes~~) wishing to operate a private vocational school must apply for a license (~~on forms~~) according to instructions provided by the agency. If the agency determines an application is deficient, the applicant will be so notified. The applicant must correct the deficient

cies within thirty days of notification. If that fails to occur, the application ((will)) may be returned to the applicant. The license application fee will not be refunded. The agency's executive director or designee may deny a license application for just cause.

The application must include, along with the licensing fees, the following information attested to by the school's chief administrative officer:

~~((1) An identification of owners, shareholders, and directors:~~

~~(a) The complete legal name, current telephone number, and current mailing address of the owner;~~

~~(b) The form of ownership; e.g., sole proprietorship, partnership, limited partnership, or corporation;~~

~~(c) Names, addresses, phone numbers, birth dates, and prior school affiliations if any, of all individuals with ten percent or more ownership interest;~~

~~(d) A school that is a corporation or a subsidiary of another corporation must submit:~~

~~(i) Current evidence that the corporation is registered with the Washington secretary of state's office; and~~

~~(ii) The name, address and telephone number of the corporation's registered agent;~~

~~(e) "Ownership" of a school means:~~

~~(i) In the case of a school owned by an individual, that individual;~~

~~(ii) In the case of a school owned by a partnership, all full, silent and limited partners having a ten percent or more ownership interest;~~

~~(iii) In the case of a school owned by a corporation, the corporation, each corporate director, officer, and each shareholder owning shares of issued and outstanding stock aggregating at least ten percent of the total of the issued and outstanding shares;~~

~~(f) Schools under common ownership may designate a single location as the principal facility for recordkeeping via written notice to the agency.~~

~~(2) Financial statement:~~

~~(a) The school must submit information reflecting its financial condition at the close of its most recent fiscal year to demonstrate that it has sufficient financial resources to fulfill its commitments to students.~~

~~(i) Each nonaccredited school must submit a financial statement in a format supplied by the agency.~~

~~(ii) Each accredited school must submit a reviewed or audited financial statement, whichever is required by its accrediting body.~~

~~(b) If inadequate time exists to produce a financial statement in the interval between the ending date of the school's fiscal year and the due date of an application, the agency will adjust the school's license period to provide a reasonable interval.~~

~~(c) New schools must submit a proposed operating budget for the initial twelve months of operation rather than the financial statement described in (a) of this subsection. The proposed operating budget must be completed in a format supplied by the agency.~~

~~(d) New schools that have operated another business for at least one year, must submit, in addition to the proposed operating budget described in (c) of this subsection, a finan-~~

~~cial statement for that business. The financial statement must cover the existing business' most recently completed fiscal year and be prepared by a certified public accountant or be certified by the business' chief administrative officer.~~

~~(e) Owners of multiple schools may file financial information that consists of a single, consolidated financial statement and balance sheet for the corporation. The consolidated financial statement must be accompanied by data that documents total tuition earnings for each separate school under the corporation's ownership at the close of its most recent fiscal year. If historical data is not available, the data must project total tuition earnings for the school in its first or next completed twelve months of operation.~~

~~(3) Financial references:~~

~~(a) The school must furnish the names of at least one bank or other financial institution and two other entities that the agency may consult as financial references.~~

~~(b) A statement must be included authorizing the agency to obtain financial information from the references.~~

~~(4) A school must demonstrate to the agency that it is financially viable under the requirements established by this section.~~

~~(a) The agency considers a school to be financially viable only if it:~~

~~(i) Is able to provide the services described in its official publications and statements;~~

~~(ii) Is able to provide the administrative resources necessary to comply with the requirements of this subsection;~~

~~(iii) Is able to meet all of its financial obligations, including, but not limited to refunds that it is required to make;~~

~~(iv) Demonstrates at the end of its latest fiscal year, a ratio of current assets to current liabilities of at least 1:1;~~

~~(v) Had, for its latest fiscal year, a positive net worth. For the purposes of this subsection, a positive net worth occurs when the school's assets exceed its liabilities;~~

~~(vi) Has not had operating losses over both of its two latest fiscal years. In applying this standard, the agency may consider the effect of unusual events;~~

~~(vii) Has not had, for its latest fiscal year, an operating deficit exceeding ten percent of the institution's net worth. For purposes of this subsection, an operating deficit occurs when operating expenses exceed revenues from current business activities.~~

~~(b) A school that is not financially viable may be considered at risk and be required to follow the procedures cited in WAC 490-105-175.~~

~~(5) A copy of the school's catalog. (See RCW 28C.10-050 (1)(c).) The school must publish a catalog or brochure that explains its operations and requirements. The catalog must be current, comprehensive, and accurate. The school must disclose the following in some combination of a catalog, brochure or other written material and furnish a copy of each to every prospective student prior to completing an enrollment agreement:~~

~~(a) Date of publication;~~

~~(b) Names of owners having a ten percent or more equity ownership and officers, including any governing boards, and the name and address of its parent corporation, if a subsidiary;~~

(c) Names, addresses, and telephone numbers of the school's administrative offices and all auxiliary facilities;

(d) Names and qualifications of faculty. The list must be accurate as of the date of catalog publication. Any changes of faculty must be noted on a catalog errata sheet;

(e) The school calendar, including hours of operation, holidays, enrollment periods, and the beginning and ending dates of terms, courses, or programs as may be appropriate;

(f) Admission procedures including policies describing all prerequisites needed by entering students to:

(i) Successfully complete the programs of study in which they are interested; and

(ii) Qualify for the fields of employment for which their education is designed;

(g) A description of the job placement assistance offered, if any. If no assistance is offered, the school must make that fact known;

(h) The school's policy regarding student conduct, including causes for dismissal and conditions for readmission;

(i) The school's policy regarding leave, absences, class cuts, makeup work, tardiness, and interruptions for unsatisfactory attendance;

(j) The school's policy regarding standards of progress required of the student. This policy must define the grading system, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory progress, a description of the probationary period, if any, allowed by the school, conditions for reentrance for those students dismissed for unsatisfactory progress; and information that a statement will be furnished to the student regarding satisfactory or unsatisfactory progress;

(k) An accurate description of the school's facilities and equipment available for student use, the maximum or usual class size and the average student/teacher ratio;

(l) The total cost of training including registration fee, if any, tuition, books, supplies, equipment, laboratory usage, special clothing, student activities, insurance and all other charges and expenses necessary for completion of the program;

(m) A description of each program of instruction, including:

(i) Specific program objectives including the job titles for which the program purports to train;

(ii) The number of clock or credit hours of instruction, the method of instruction (e.g., correspondence, classroom, lab, computer assisted), and the average length of time required for successful completion;

(iii) If instruction is calculated in credit hours, the catalog must contain at least one prominent statement describing the contact hour conversion formula applied by the school; i.e., the number of contact hours applicable to each quarter or semester credit hour of lecture, laboratory/practicum, and/or internship/externship;

(iv) For distance education schools, instructional sequences must be described in numbers of lessons;

(n) The scope and sequence of courses or programs required to achieve the educational objective;

(o) A statement indicating the type of educational credential that is awarded upon successful completion;

(p) The school's cancellation and refund policy;

(q) The following statement must appear prominently on either the first or last printed page or inside the front or back cover: THIS SCHOOL IS LICENSED UNDER CHAPTER 28C.10 RCW; INQUIRIES OR COMPLAINTS REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD, 128 TENTH AVENUE S.W., P.O. BOX 43105, OLYMPIA, WASHINGTON 98504-3105 (360-753-5662);

(r) The availability of financial aid, if any;

(s) Supplements or errata sheets for the catalog and other written materials related to enrollment must be filed with the agency prior to being used (see RCW 28C.10.110(2));

(i) Supplements or errata sheets must be made an integral part of that publication;

(ii) The supplement or errata sheet must include its publication date;

(iii) In the event information on a supplement or errata sheet supplants information contained in the catalog, the insert must identify the information it replaces, including at the least an appropriate page reference.

(6) A copy of the school's enrollment agreement/contract. (See RCW 28C.10.050 (1)(d).) An enrollment agreement is any agreement that creates a binding obligation to purchase a course of instruction from a school. Each school must use an enrollment contract or agreement that includes:

(a) The school's cancellation and refund policy, in accordance with these rules, displayed in a type size no smaller than that used to meet any other requirements of this section;

(b) The following statement: THIS SCHOOL IS LICENSED UNDER CHAPTER 28C.10 RCW; INQUIRIES OR COMPLAINTS REGARDING THIS OR ANY OTHER PRIVATE VOCATIONAL SCHOOL MAY BE MADE TO THE: WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD, 128 TENTH AVENUE S.W., P.O. BOX 43105, OLYMPIA, WASHINGTON 98504-3105 (360-753-5662);

(c) Information that will clearly and completely define the terms of the agreement between the student and the school, including at least the following:

(i) The name and address of the school and the student;

(ii) The program or course title as it appears in the school's catalog, date training is to begin, and the number of hours or units of instruction or lessons for which the student is enrolled;

(iii) An itemization of all charges, fees, and required purchases being incurred by the student or his/her sponsor in order to complete the training. The student enrollment agreement must also contain the methods of payment and/or payment schedule being established;

(iv) Language explaining that the agreement will be binding only when it has been fully completed, signed and dated by the student and an authorized representative of the school prior to the time instruction begins;

(d) A statement that any changes in the agreement will not be binding on either the student or the school unless such changes have been acknowledged in writing by an authorized representative of the school and by the student or the student's parent or guardian if he/she is a minor;

(e) A "NOTICE TO THE BUYER" section which includes the following statements in a position above the space reserved for the student's signature:

~~(i) "DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACES. THIS IS A LEGAL INSTRUMENT.~~

~~(ii) ALL PAGES OF THE CONTRACT ARE BINDING.~~

~~(iii) READ BOTH SIDES OF ALL PAGES BEFORE SIGNING.~~

~~(iv) YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT, SCHOOL CATALOG AND ANY OTHER PAPERS YOU SIGN AND ARE REQUIRED TO SIGN A STATEMENT ACKNOWLEDGING RECEIPT OF THOSE.~~

~~(v) IF YOU HAVE NOT STARTED TRAINING, YOU MAY CANCEL THIS CONTRACT BY PROVIDING WRITTEN NOTICE OF CANCELLATION TO THE SCHOOL AT ITS ADDRESS SHOWN ON THE CONTRACT. THE NOTICE MUST BE POSTMARKED NOT LATER THAN MIDNIGHT OF THE FIFTH BUSINESS DAY (EXCLUDING SUNDAYS AND HOLIDAYS) FOLLOWING YOUR SIGNING THIS CONTRACT OR THE WRITTEN NOTICE MAY BE PERSONALLY OR OTHERWISE DELIVERED TO THE SCHOOL WITHIN THAT TIME. IN EVENT OF DISPUTE OVER TIMELY NOTICE, THE BURDEN TO PROVE SERVICE RESTS ON THE APPLICANT.~~

~~(vi) IT IS AN UNFAIR BUSINESS PRACTICE FOR THE SCHOOL TO SELL, DISCOUNT OR OTHERWISE TRANSFER THIS CONTRACT OR PROMISSORY NOTE WITHOUT THE SIGNED WRITTEN CONSENT OF THE STUDENT OR HIS/HER FINANCIAL SPONSORS AND A WRITTEN STATEMENT NOTIFYING ALL PARTIES THAT THE CANCELLATION AND REFUND POLICY CONTINUES TO APPLY."~~

~~(f) Attached to each contract must be a form provided by the agency that contains statements relating to the student's rights, responsibilities, and loan repayment obligations; and the school's responsibility to counsel the student against incurring excessive debt;~~

~~(g) The school must provide the student a copy of the signed enrollment agreement.~~

~~(7) Information regarding the qualifications of administrative and instructional personnel. (See RCW 28C.10.050 and 28C.10.060.) The education and experience of administrators, faculty, and other staff must be adequate to insure students will receive educational services consistent with the stated program objectives.~~

~~(a) The school must file the qualifications of all affected individuals with the agency within thirty calendar days of their employment. The information must be submitted on forms provided by the agency.~~

~~(b) The school must establish and enforce written policies for the qualification, supervision, continuing education, and periodic evaluation of administrators, faculty, and staff.~~

~~(c) School directors must have at least two years of experience in either school or business administration, teaching, or other experience related to their duties within the organization.~~

~~(d) Faculty must be qualified to provide instruction in their areas of specialization as demonstrated by possession of the following:~~

~~(i) Sufficient broad and comprehensive training;~~

~~(ii) Industry recognized certification when available; and~~

~~(iii) Two years of relevant education or work experience or relevant, current teaching experience that particularly qualifies them to provide instruction in their areas of specialization; or~~

~~(iv) Current evidence of being qualified to teach that has been issued by a regulatory agency of this or another state.~~

~~(e) In addition to the requirements in (d) of this subsection, faculty who teach a course related to an occupation for which the student must subsequently be licensed or certified must hold or be qualified to hold such a license or certificate.~~

~~(f) If the school uses teacher assistants, aides, or trainees, it must maintain policies governing their duties and functions. Such personnel may provide services to students only under the direct supervision of a qualified instructor. They may not act as substitutes for the instructor.~~

~~(g) Owners, administrators, faculty, agents and other staff must be of good moral character and reputation. The agency may find that a person is not of good moral character and reputation if the person:~~

~~(i) Has been convicted of any felony within the prior seven years, a misdemeanor which involved the illegal use, possession, or sale of a controlled substance, or a misdemeanor that involved any sexual offense; or~~

~~(ii) Is found to have made any false statements in the application for a private vocational school license.~~

~~(h) If the person has been convicted of a felony, or is found to have made false statements in the private vocational school application, the agency will consider the relationship of the facts supporting the charge or conviction to the performance of his or her occupational responsibilities with the licensed school and to that school's students.~~

~~(i) In making such determinations the agency will request a letter of recommendation from the employing school and may consider any other related materials submitted by the school and/or affected individual prior to making a finding under this section.) (1) An identification of owners, shareholders, and directors:~~

~~(a) Complete legal name, personal telephone number, and home mailing address of the owner, shareholders, and directors;~~

~~(b) The form of ownership; e.g., sole proprietorship, partnership, limited partnership, or corporation;~~

~~(c) Names, addresses, personal phone numbers, e-mail addresses, and prior school affiliations if any, of all individuals with ten percent or more ownership interest;~~

~~(d) A school that is a corporation or a subsidiary of another corporation must submit:~~

~~(i) Current evidence that the corporation is registered with the Washington secretary of state's office; and~~

~~(ii) The name, address, and telephone number of the corporation's registered agent.~~

~~(2) A proposed operating budget for the initial twelve months of operation. The proposed operating budget must be completed in a format supplied by the agency. If the applicant operated another business within the last year it must submit, in addition to the proposed operating budget:~~

~~(a) A financial statement for that business. The financial statement must cover the existing business' most recently completed fiscal year and be prepared by a certified public accountant or be certified by the business' chief administrative officer.~~

~~(b) A Dunn and Bradstreet (or similar entity) identification number.~~

(3) The school must furnish the names of at least one bank or other financial institution and two other entities that the agency may consult as financial references. A statement must be included authorizing the agency to obtain those financial information from the references.

(4) A scored credit report from TransUnion, Experian, Equifax, or other nationally recognized credit bureau for each person owning ten percent of the business or more.

(5) A school that is a corporation or a subsidiary of another corporation must submit:

(a) Current evidence that the corporation is registered with the Washington secretary of state's office;

(b) The name, address, and telephone number of the corporation's registered agent.

(6) Schools under common ownership:

(a) May designate a single location as the principal facility for recordkeeping via written notice to the agency.

(b) Will be assigned the same licensing year for renewal purposes.

(7) If leasing a space, a copy of the rental agreement with the name, address, telephone number of the leasing firm or owner, and the name of contact person.

(8) A catalog in accordance with WAC 490-105-042.

(9) An enrollment agreement/contract in accordance with WAC 490-105-043.

(10) A list of instructional and administration staff in accordance with WAC 490-105-044.

(11) A list of registered sales agent(s) in accordance with WAC 490-105-050.

(12) Requirements for student refund and cancellation policy in accordance with WAC 490-105-130.

(13) A description of programs and course offerings in accordance with WAC 490-105-150.

(14) The school must furnish proof that they provide adequate liability coverage for students.

(15) Any other information that the agency deems necessary.

NEW SECTION

WAC 490-105-041 Annual license renewal requirements. (See RCW 28C.10.050 and 28C.10.060.) An entity operating under a private vocational school license must apply for an annual license renewal according to instructions provided by the agency. The renewal application must include, along with the renewal fees, the following information attested to by the school's chief administrative officer:

(1) An identification of owners, shareholders, and directors.

(a) The complete legal name, current personal telephone number, e-mail address, and current mailing address of the owner;

(b) The form of ownership; e.g., sole proprietorship, partnership, limited partnership, or corporation;

(c) Names, addresses, phone numbers, e-mail addresses, and prior school affiliations if any, of all individuals with ten percent or more ownership interest;

(d) A school that is a corporation or a subsidiary of another corporation must submit:

(i) Current evidence that the corporation is registered with the Washington secretary of state's office; and

(ii) The name, address, and telephone number of the corporation's registered agent.

(2) A catalog in accordance with WAC 490-105-042.

(3) An enrollment agreement/contract in accordance with WAC 490-105-043.

(4) A financial statement.

(a) The school must submit information reflecting its financial condition at the close of its most recent fiscal year to demonstrate that it has sufficient financial resources to fulfill its commitments to students.

(i) Each accredited school must submit a reviewed or audited financial statement, whichever is required by its accrediting body.

(ii) Each nonaccredited school must submit a financial statement in a format supplied by the agency.

(b) If inadequate time exists to produce a financial statement in the interval between the ending date of the school's fiscal year and the due date of an application, the agency will adjust the school's license period to provide a reasonable interval.

(5) Owners of multiple schools may file financial information that consists of a single, consolidated financial statement and balance sheet for the corporation. The consolidated financial statement must be accompanied by data that documents total tuition earnings for each separate school under the corporation's ownership at the close of its most recent fiscal year.

(6) Schools under common ownership may designate a single location as the principle facility for recordkeeping via written notice to the agency and will be assigned the same licensing year for renewal purposes.

(7) A list of instructional and administration staff in accordance with WAC 490-105-044.

(8) A list of registered sales agent(s) in accordance with WAC 490-105-050.

(9) Requirements for student refund and cancellation policy in accordance with WAC 490-105-130.

(10) A description of programs and course offerings in accordance with WAC 490-105-150.

(11) Any other information the agency deems necessary.

NEW SECTION

WAC 490-105-042 Catalog requirements. (See RCW 28C.10.050 (1)(c).) The school must publish a catalog that explains its operations and requirements. The catalog must be current, comprehensive, and accurate. The school must disclose the following, in some combination of a catalog, brochure, or other written material and furnish that information to each prospective student prior to completing an enrollment agreement. The catalog must include at least the following:

(1) Date of publication;

(2) Names of owners having a ten percent or more equity ownership and officers, including any governing boards, and the name and address of its parent corporation, if a subsidiary;

(3) Names, addresses, and telephone numbers of the school's administrative offices and all auxiliary facilities;

(4) Names and qualifications of faculty. The list must be accurate as of the date of catalog publication. Any changes of faculty must be noted on a catalog errata sheet;

(5) The school calendar, including hours of operation, holidays, enrollment periods, and the beginning and ending dates of terms, courses, or programs as may be appropriate;

(6) Admission procedures, including policies describing all prerequisites needed by entering students to:

(a) Successfully complete the programs of study in which they are enrolled; and

(b) Qualify for the fields of employment for which their education is designed.

(7) A description of the job placement assistance offered, if any. If no assistance is offered, the school must make that fact known;

(8) The school's policy regarding student conduct, including causes for dismissal and conditions for readmission;

(9) The school's grievance procedure. The policy must be preceded by "Nothing in this policy prevents the student from contacting the Workforce Board (the state licensing agency) at 360-709-4600 at any time with a concern or a complaint, workforceboard@wtb.wa.gov";

(10) The school's policy regarding leave, absences, class cuts, makeup work, tardiness, and interruptions for unsatisfactory attendance;

(11) The school's policy regarding standards of progress required for the student. This policy must define the grading system, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory progress, a description of the probationary period, if any, allowed by the school, conditions for reentrance for those students dismissed for unsatisfactory progress, and information that a statement will be furnished to the student regarding satisfactory or unsatisfactory progress;

(12) An accurate description of the school's facilities and equipment available for student use, the maximum or usual class size, and the average student/teacher ratio;

(13) The total cost of training including registration fee if any, tuition, books, supplies, equipment, laboratory usage, special clothing, student activities, insurance, and all other charges and expenses necessary for completion of the program;

(14) A description of each program of instruction, including:

(a) Specific program objectives including the job titles for which the program purports to train;

(b) The number of clock or credit hours of instruction, the method of instruction (e.g., correspondence, classroom, lab, computer assisted), and the average length of time required for successful completion;

(c) If instruction is calculated in credit hours, the catalog must contain at least one prominent statement describing the contact hour conversion formula applied by the school; i.e., the number of contact hours applicable to each quarter or semester credit hour of lecture, laboratory/practicum, and/or externship/internship;

(d) For distance education schools, instructional sequences must be described in numbers of lessons.

(15) The scope and sequence of courses or programs required to achieve the educational objective;

(16) A statement indicating the type of educational credential that is awarded upon successful completion;

(17) The school's cancellation and refund policy;

(18) The following statement must appear prominently on either the first or last printed page or inside the front or back cover: "This school is licensed under chapter 28C.10 RCW. Inquiries, concerns, or complaints regarding this school can be made to the Workforce Board, 128 10th Avenue S.W., Olympia, Washington, 98501, 360-709-4600, web: www.wtb.wa.gov, e-mail workforce@wtb.wa.gov";

(19) The availability of financial aid, if any. If no financial assistance is available, the school must make that fact known;

(20) Supplements or errata sheets for the catalog and other written materials related to enrollment must be filed with the agency prior to being used (see RCW 28C.10.110 (2)):

(a) Supplements or errata sheets must be made an integral part of that publication;

(b) The supplement or errata sheet must include its publication date;

(c) In the event information on a supplement or errata sheet supplants information contained in the catalog, the insert must identify the information it replaces, including at the least an appropriate page reference.

(21) The school must furnish proof that they provide adequate liability coverage for students; and

(22) Any other information that the agency deems appropriate.

NEW SECTION

WAC 490-105-043 Enrollment agreement requirements. (See RCW 28C.10.050 (1)(d).) An enrollment agreement is any agreement that creates a binding obligation to purchase a course of instruction from a school. Each school must use an enrollment contract or agreement that includes:

(1) The school's cancellation and refund policy, in accordance with WAC 490-105-130, displayed in a type font size no smaller than that used to meet any other requirements of this section.

(2) The following statement: This school is licensed under chapter 28C.10 RCW. Inquiries, concerns, or complaints regarding this school can be made to the Workforce Board, 128 10th Avenue S.W., Olympia, Washington, 98501, 360-709-4600, web: www.wtb.wa.gov, e-mail workforce@wtb.wa.gov.

(3) Information that will clearly and completely define the terms of the agreement between the student, the school, and the student's sponsor, if applicable. The enrollment agreement must include at least the following:

(a) The name and address of the school and the student;

(b) The name and address of the sponsoring agency or business, if applicable;

(c) The program or course title as it appears in the school's catalog, date training is to begin, and the number of hours or units of instruction or lessons for which the student is enrolled;

(d) An itemization of all charges, fees, and required purchases being incurred by the student or his/her sponsor in order to complete the training. The student enrollment agreement must also contain the sources and methods of payment and/or payment schedule being established;

(e) Language explaining that the agreement will be binding only when it has been fully completed, signed and dated by the student and an authorized representative of the school prior to the time instruction begins; and

(f) A statement that any changes in the agreement will not be binding on either the student or the school unless such changes have been acknowledged in writing by an authorized representative of the school and by the student or the student's parent or guardian if he/she is a minor.

(4) A "NOTICE TO THE BUYER" section which includes the following required statements in a position above the space reserved for the student's signature:

(a) Do not sign this contract before you READ IT or if it contains any blank spaces. This is a legal document.

(b) All pages of the contract are binding. READ both sides of all pages before signing. You are entitled to an exact copy of the contract, school catalog, and any papers that you sign and are required to sign a statement acknowledging receipt of those.

(c) If you have not started training, you may cancel this contract by providing written notice of cancellation to the school at its address shown on the contract. The notice must be postmarked no later than midnight of the fifth business day (excluding Sundays) following the signing of this contract or the written statement may be personally or otherwise delivered to the school. If there is a dispute over timely notice, the burden to prove service rests on the student.

(d) It is an unfair business practice for the school to sell, discount, or otherwise transfer this contract without the informed written consent by handwritten signature of the student or his/her financial sponsors and a written statement notifying all parties that the cancellation and refund policy still applies.

(5) For education or training sponsored (in whole or in part) by a business or agency, a separate addendum must be signed by the student, the school, and the sponsoring agency or business. The addendum will be provided by the workforce and contain statements detailing the responsibilities of each party.

(6) Attached to each contract must be a form provided by the agency that contains statements relating to the student's rights and loan repayment obligations; and the school's responsibility to counsel the student against incurring excessive debt; the addendum must be signed by the school and the student.

(7) Attached to each contract must be a form provided by the agency that contains statements relating to student's rights to file a complaint and the process and procedures to follow; the addendum must be signed by the school and the student.

(8) The school must provide all students with a copy of the signed enrollment agreement, and any other papers they sign.

(9) Any other information the agency deems appropriate.

NEW SECTION

WAC 490-105-044 Instructor and administrator qualifications. (See RCW 28C.10.050 and 28C.10.060.) The education and experience of administrators, faculty, and other staff must be adequate to ensure that students will receive educational services consistent with the stated program objectives.

(1) The school must file with the agency the qualifications of all instructional staff and other administration or personnel that interact with students within thirty calendar days of their employment.

(2) The school must establish and enforce written policies for the qualification, supervision, continuing education, and periodic evaluation of administrators, faculty, and staff.

(3) School directors must have at least two years of experience in a school or business administration, teaching, or other experience related to their duties within the organization.

(4) Faculty must be qualified to provide instruction in their areas of specialization as demonstrated by possession of the following:

(a) Industry recognized certification when available; and

(b) Two years of relevant education or work experience or relevant, current teaching experience that particularly qualifies them to provide instruction in their areas of specialization; or

(c) Current evidence of being qualified to teach that has been issued by a regulatory agency of this or another state.

(5) Faculty who teach a course related to an occupation for which the student must subsequently be licensed or certificated must hold or be qualified to hold such a license or certificate.

(6) If the school uses teacher assistants, aides, or trainees, it must maintain policies governing their duties and functions. Such personnel may provide services to students only under the direct supervision of a qualified instructor. They may not act as substitutes for the instructor.

(7) Owners, administrators, faculty, agents and other staff must be of good moral character and reputation. The agency may find that a person is not of good moral character and reputation if the person:

(a) Has been convicted of any felony within the prior seven years, a misdemeanor which involved the illegal manufacturing, use, possession, or sale of a controlled substance, or a misdemeanor that involved any sexual offense; or

(b) Is found to have made any false statements in the application for a private vocational school license.

(c) If the person has been convicted of a felony, or is found to have made false statements in the private vocational school application, the agency will consider the relationship of the facts supporting the charge or conviction to the performance of his or her occupational responsibilities with the licensed school and to that school's students.

(d) In making such determinations the agency may request a letter of recommendation from the employing school and may consider any other related materials submitted by the school and/or affected individual prior to making a finding under this section.

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-050 (~~(How does a school register its sales agents?)~~) **Sales agent registration.** (See RCW 28C.10.060.)

(1) Each school (~~(must register its sales agents with the agency within thirty calendar days of their hire)~~) shall be responsible for conduct of its admission/sales agents in the performance of their duties and shall provide them with adequate training to ensure compliance with training standards specified in subsection (6) of this section.

(2) Each school must register its sales agents with the agency within thirty calendar days of their hire. An application to register a sales agent must be in (~~(writing on forms)~~) a format supplied by the agency.

(3) Each individual applying to be registered as an agent is considered to be acting as an agent of the school designated on the application. No person can be independently registered to perform the functions of an agent.

(4) If an individual is applying to represent a private vocational school that is located in another state and does not operate a training facility within Washington state, the application must be accompanied by the fee in WAC 490-105-070(2).

(5) Each school to (~~(whom)~~) which the agent is registered must (~~(notify the agency in writing)~~) inactivate the agent within thirty calendar days following the date that the registered agent ceases to perform those services.

(6) Each school (~~(must provide)~~) shall ensure proper training to sales agents prior to their representing the school. The training (~~(must)~~) shall include at a minimum:

(a) (~~(Provisions)~~) An applicant for sales agent must receive a copy of the of the Private Vocational School Act (chapter 28C.10 RCW) and the regulations contained in this chapter(;

(b) A detailed review of the school's catalog, enrollment contract, and refund policy;

(c) An organized review of the school's policies and practices governing the ethical conduct of sales agents); all applicants must acknowledge that they have read the statutes and regulations concerning the Private Vocational School Act, by signing an attestation statement to be included in the personnel file;

(b) An applicant for sales agent shall be of good moral character and reputation as referenced in WAC 490-105-044(7);

(c) The school shall ensure that each applicant is knowledgeable of the school's catalog, enrollment agreement and their policies and procedures.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-060 (~~(Do off-campus activities require licensing?)~~) **Licensing of off-campus activities.** (~~(+)~~) Schools under common ownership that offer educational services and maintain ongoing individual facilities, faculty, or students shall be considered as independent entities. Schools that offer educational services as part of an educational program conducted at a location other than the licensed school

location approved by the agency must obtain approval from the agency prior to conducting educational services at an auxiliary location.

(1) An auxiliary facility license is required if a school meets the following criteria:

(a) The educational program includes an externship/internship, clinical/practicum or lab/field component conducted at a location other than the school's approved licensed location that is offered as part of a program and required for completion of a program;

(b) The instructional program, site administration, and training are significantly integrated with the school's primary facility;

(c) The facility will not be represented as a school location and its address will not be advertised;

(d) No exterior or interior school emblem/logo is displayed at times other than during the training session; and

(e) No enrollment will be solicited or executed at the auxiliary facility.

(2) The agency may grant exemptions from licensing for off-campus instruction or activities that either:

(a) Absorb a temporary overload that the licensed facility cannot accommodate; (~~(ø)~~)

(b) Provide a single, specialized kind of training activity, generally on a short-term basis, under circumstances that cannot readily be accommodated at the licensed facility(~~(-~~ (2));

(c) Serve the public interest through off-campus instruction/activity offered in a rural or otherwise, underserved location, to accommodate demonstrated community demand for a particular field or industry.

(3) The school must obtain approval from the agency before conducting operations at an auxiliary facility. To obtain approval, the school must document that(~~(-~~ (a))

(a)) the facility meets one (~~(of the above definitions;~~

(b) The instructional program, site administration, and training are significantly integrated with the school's primary facility;

(c) The facility will not be represented as a school location and its address will not be advertised; and

(d) No enrollment will be solicited or executed at the auxiliary facility.

(3)) or more of the above criteria in subsection (2) of this section.

(4) Activities occurring at an auxiliary facility must be incorporated into operational and financial data the school reports to the agency.

(5) The authorization period for an auxiliary facility cannot exceed the time stated on the school's license. Continued approval of an auxiliary facility must be made annually at the time of license renewal.

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-070 (~~(How much does it cost to obtain a license?)~~) **Fees.** (See RCW 28C.10.060(3).)

(1) (~~(Annual fee:)~~) Initial/new school licensing fees and annual licensing/renewal fees:

(a) A school located within the state of Washington must pay an annual license/renewal application fee based on total annual tuition income.

(b) A school located outside the state of Washington must pay an annual license/renewal application fee based on the total annual tuition income received from or on behalf of Washington state residents.

(c) A new school that has not been in operation prior to the date of initial licensing must base its application fee on estimated total annual tuition income.

If the school's total annual tuition income is:	Its Annual License Fee is:
\$0 - \$25,000	\$250
\$25,001 - \$50,000	\$500
\$50,001 - \$100,000	\$600
\$100,001 - \$250,000	\$750
\$250,001 - \$500,000	\$1,000
\$500,001 - \$1,000,000	\$1,500
\$1,000,001 - \$2,500,000	\$2,000
\$2,500,001+	\$2,500

(2) Other fees:

Sales Agents representing out-of-state schools	\$120 annually per agent
Late filing of renewal application	\$25 per day to a maximum of 30 calendar days
Auxiliary location certificate, reissuance of license/ auxiliary certificate, change of school name or location	\$25

(3) All fees related to licensing, except for the initial deposit to the tuition recovery trust fund, are nonrefundable. No right to a license or registration is established or implied through the payment of fees. (See RCW 28C.10.060.) Private vocational school licenses must be renewed annually. The renewal application must include a financial statement attested to by the chief administrative officer; amendments to any statement or materials on file that are no longer accurate; and the required fees.

AMENDATORY SECTION (Amending WSR 01-23-078, filed 11/21/01, effective 12/22/01)

WAC 490-105-080 (~~How are contributions to the tuition recovery trust fund calculated?~~) **Tuition recovery trust fund fees.** (See RCW 28C.10.082 and 28C.10.084.)

(1) Establishment of fund liability. The amount of liability that can be satisfied by this fund on behalf of each individual school licensed under this chapter is the amount of unearned prepaid tuition in the possession of the owner.

(a) If the school is located within the state of Washington, the amount of liability that can be satisfied by this fund is the amount of unearned, prepaid tuition from or on behalf of all students.

(b) If the school is located outside the state of Washington, the amount of liability that can be satisfied by this fund is the amount of unearned prepaid tuition from or on behalf of Washington state residents.

(c) If the board and the student determine that the student should have additional evaluation and assessment, these must be completed before further education/training or to secure teach out opportunities.

(d) If the board and the student determine that the student is unable to secure available teach out opportunities, a student may be entitle to a full refund of tuition and other expenses.

(2) Matrices for calculating initial deposits and any assessments necessary under subsection (7) of this section:

Annual Tuition Revenue:	Prorated Share:
\$0 - \$50,000	0.15%
\$50,001 - \$75,000	0.23%
\$75,001 - \$100,000	0.30%
\$100,001 - \$150,000	0.46%
\$150,001 - \$200,000	0.61%
\$200,001 - \$250,000	0.76%
\$250,001 - \$350,000	1.07%
\$350,001 - \$500,000	1.52%
\$500,001 - \$750,000	2.28%
\$750,001 - \$1,000,000	3.05%
\$1,000,001 - \$1,250,000	3.81%
\$1,250,001 - \$1,500,000	4.57%
\$1,500,001 - \$1,750,000	5.33%
\$1,750,001 - \$2,000,000	6.10%
\$2,000,001 - \$2,250,000	6.86%
\$2,250,001 - \$2,500,000	7.62%
>\$2,500,000	8.38%

~~(3) ((Initial deposit.))~~ When a new school submits its initial license application, it must include for deposit into the tuition recovery trust fund, the amount identified in the second column of the table below.

~~(4) ((Contribution schedule.))~~ In order to remain licensed under this chapter, the school must remit to the agency ~~((semiannual payments for deposit into the tuition recovery trust fund))~~ a TRTF payment at six months after initial licensure and annual payments thereafter, payable at the same time the renewal application is due. The amount of the deposits into the fund for the first five years is calculated by applying the percentages displayed under subsection (2) of this section, to an amount totaling one million dollars as required by RCW 28C.10.084. In the second five years, contributions for amounts between zero and one hundred fifty thousand dollars will be reduced by fifty percent.

If the school's total annual tuition income is:	A new school will make an initial deposit to the fund of:	The school will make the following ((semiannual)) <u>annual</u> payments for the first five years it is licensed:	The school will make the following ((semiannual)) <u>annual</u> payments for the second five years it is licensed:
\$0 - \$50,000	\$305	\$ ((122)) <u>244</u>	\$ ((64)) <u>122</u>
\$50,001 - \$75,000	\$457	\$ ((183)) <u>366</u>	\$ ((92)) <u>183</u>
\$75,001 - \$100,000	\$609	\$ ((244)) <u>488</u>	\$ ((122)) <u>244</u>
\$100,001 - \$150,000	\$914	\$ ((366)) <u>732</u>	\$ ((183)) <u>366</u>
\$150,001 - \$200,000	\$1,219	\$ ((487)) <u>974</u>	\$ ((487)) <u>974</u>
\$200,001 - \$250,000	\$1,523	\$ ((609)) <u>1,318</u>	\$ ((609)) <u>1,318</u>
\$250,001 - \$350,000	\$2,133	\$ ((853)) <u>1,706</u>	\$ ((853)) <u>1,706</u>
\$350,001 - \$500,000	\$3,046	\$ ((1,219)) <u>2,438</u>	\$ ((1,219)) <u>2,438</u>
\$500,001 - \$750,000	\$4,570	\$ ((1,828)) <u>3,656</u>	\$ ((1,828)) <u>3,656</u>
\$750,001 - \$1,000,000	\$6,093	\$ ((2,437)) <u>4,874</u>	\$ ((2,437)) <u>4,874</u>
\$1,000,001 - \$1,250,000	\$7,616	\$ ((3,046)) <u>6,092</u>	\$ ((3,046)) <u>6,092</u>
\$1,250,001 - \$1,500,000	\$9,139	\$ ((3,656)) <u>7,312</u>	\$ ((3,656)) <u>7,312</u>
\$1,500,001 - \$1,750,000	\$10,663	\$ ((4,265)) <u>8,530</u>	\$ ((4,265)) <u>8,530</u>
\$1,750,001 - \$2,000,000	\$12,186	\$ ((4,874)) <u>9,748</u>	\$ ((4,874)) <u>9,748</u>
\$2,000,001 - \$2,250,000	\$13,710	\$ ((5,483)) <u>10,966</u>	\$ ((5,483)) <u>10,966</u>
\$2,250,001 - \$2,500,000	\$15,233	\$ ((6,092)) <u>12,184</u>	\$ ((6,092)) <u>12,184</u>
> \$2,500,000 -	\$16,757	\$ ((6,702)) <u>13,404</u>	\$ ((6,702)) <u>13,404</u>

(5) The agency will send ~~((semiannual))~~, to the address of record, annual notices of the due date(s) and amount(s) of deposit(s) required under subsection (4) of this section. The burden of keeping current contact information with the agency falls to the school. The fee for late filings under WAC 490-105-070(2) of this chapter applies to late payments of deposits into the fund for a period cumulating to thirty calendar days. Failure to make a deposit within thirty calendar days is a violation of RCW 28C.10.050 (1)(f).

(6) ~~((Each semiannual notice will include:~~

~~(a) The school's aggregated prior deposits into the fund;~~

~~(b) The school's balance of remaining payments, based on the most recent deposit received and adjusted to the current contribution level;~~

~~(c) The cumulated balance existing in the fund at the most recent half-year accounting; and~~

~~(d) A summary showing any disbursements made from the fund to satisfy claims in the period since the last summary was disseminated.)~~ If an annual tuition recovery trust fund payment is a hardship for the school, the agency may grant an alternate payment schedule.

(7) If disbursements made to settle claims reduce the operating balance below one million dollars and recovery of such funds has not been ensured under the provisions of RCW 28C.10.084 (10)(d), the agency will assess each school a pro rata share of the amount required to restore the deficiency. The assessment will be made within thirty calendar days of the date deficiency is created. Each school's share of the assessment will be calculated using the percentages established under subsection (2) of this section. If the school's assessment equals or is less than the semiannual amount of deposit established for the school under subsection (4) of this section, the assessment must be paid within thirty calendar days of notice. If the assessment exceeds the amount of the school's semiannual deposit, it may apply to the agency for a schedule of deferred payments. The agency will grant deferrals on application, but in no case will the extension exceed one year beyond the date of the assessment.

(8) Funds disbursed to settle claims against a currently licensed school will be recovered by the agency under a schedule to be negotiated with the affected school on a case-by-case basis. To secure deferral of payment more than thirty calendar days after demand for recovery is made, the burden to prove manifest hardship rests on the school but in no case will the time extended exceed one year beyond the date of the initial demand notice.

(9) Claimant, as referenced under RCW 28C.10.084 (10)(a), is further defined to mean an enrolled student in regular attendance or on an authorized leave of absence at the time of closure.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-100 (~~Who is exempt from licensing?~~)
Exemption from licensing requirements. (~~To qualify for an exemption as test preparation or continuing education under WAC 490-105-030 (1)(e)(i) and (ii), a school must apply to the agency on a form created for that purpose and obtain approval. Exemptions must be renewed annually.~~)
RCW 28C.10.030 provides exemption for some entities for certain types of education or training. These exemptions are further interpreted or defined as follows:

(1) "Conducting educational programs" includes instructional or training programs or courses taught by a third party pursuant to a written contract with a trade, business, professional, or fraternal organization, primarily for the training of that business' employees or organizations members, and for which no tuition fee is charged to the employee or member. Organizations that incentivize membership during the enrollment process cannot qualify for the exemption found in RCW 28C.10.030(1).

(2) "Avocational" or "recreational" means instruction that is primarily intended for leisure and is not offered to provide a student with employable skills or competencies. Instruction offered as a prerequisite for a vocational program does not qualify for this exemption.

(3) "Entities not otherwise exempt offering only workshops or seminars lasting no longer than three calendar days" means instruction that can be completed within three scheduled class days. A class day shall be defined by the school's

class schedule, but must allow reasonable breaks and may not exceed fourteen hours. A vocational education program divided into a series of supplementary seminars does not qualify for this exemption.

(4) "Programs of continuing professional education" include:

(a) Review programs offered solely as preparation for tests leading to certification in specific disciplines but not offered to provide occupational competencies. For example, this exemption applies to test preparation programs that lead to: Certification by a state board of accountancy (CPA); certification by the institute of certified management accounting (CMA); admission to practice before a state bar; certification in health occupations initiated by the American Medical Association, American Dental Association, and their respective professional auxiliaries; and, acquisition of other public certificates of convenience and necessity; and

(b) Programs offered to conform with rules adopted by state agencies that require practitioners to undergo continuing professional education as a condition to renewing certification or licensure.

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-110 ~~Display of licenses~~(~~—Loss or destruction—~~) **and notice of status change(s).** (See RCW 28C.10.060.) The school must display its license or auxiliary facility certificate prominently in the licensed premises.

(1) If the license or auxiliary facility certificate is lost or destroyed, the school must apply for a duplicate and pay the reissuance fee described in WAC 490-105-070(2) (Other fees).

(2) If the school plans to change its name, it must notify the agency in advance and pay the certificate reissuance fee described in WAC 490-105-070(2) (Other fees).

(3) If the school plans to change its location or that of an auxiliary facility it must notify the agency in advance and pay the certificate reissuance fee described in WAC 490-105-070(2) (Other fees).

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-120 (~~What if the school changes ownership?~~) **Ownership changes.** (See RCW 28C.10.060.) Private vocational school licenses are not transferable. When a sale takes place, the school's license expires. The new owner must secure a new license.

(1) The following are considered changes of ownership:

(a) A sale by the sole proprietor of a school, unless the seller becomes the majority stockholder of the buying corporation;

(b) A change in the majority interest of general partners of a partnership; or

(c) A sale or transfer of stock that creates a change in the majority interest in the issued and outstanding shares of a corporation.

(2) To assure there is no disruption in students' training the agency may extend the existing license for up to sixty cal-

endar days beyond the date the ownership changes. To obtain this extension, the new owner must:

(a) Apply for a new license no less than fifteen calendar days prior to the sale; and

(b) Furnish a written statement that the school will continue to meet all conditions in the act and regulations during the time the new license is pending and to respond to student complaints and comply with agency orders pursuant to those complaints, pursuant to WAC 490-105-130.

(3) If the new owner fails to become licensed within sixty calendar days of the date of sale the school may not continue to operate unless the agency has granted an extension of time. Continued operation without an extension is a violation of RCW 28C.10.090.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-130 ~~((What are))~~ **Minimum requirements for student refunds** ~~((2))~~ (See RCW 28C.10.050 (1)(b).)

(1) At a minimum, schools must use the following applicable refund and cancellation ((and refund)) policies; however, the agency may approve refund policies whose terms are more favorable to students than the following established minimums. ((Refunds must be paid within thirty calendar days of the student's official date of termination:

~~(1))~~

(2) The official date of termination or withdrawal of a student shall be determined in the following manner:

(a) The date on which the school recorded the student's last day of attendance;

(b) The date on which the student is terminated for a violation of a published school policy which provides for termination;

(c) No student shall be continued on an inactive status in violation of school policy without written consent of the student. Inactive students must be terminated within thirty days of the next available start date and refunded appropriate pre-paid tuition and fees at that time.

(3) Refunds must be calculated using the official date of termination or withdrawal and the date designated on the current enrollment agreement executed with the student. Refunds must be paid within thirty calendar days of the student's official date of withdrawal or termination.

(4) Application/registration fees may be collected in advance of a student signing an enrollment agreement; however, all monies paid by the student shall be refunded if the student does not sign an enrollment agreement and does not commence participation in the program.

(5) For resident programs:

(a) The school must refund all money paid if the applicant is not accepted. This includes instances where a starting class is canceled by the school;

(b) The school must refund all money paid if the applicant cancels within five business days ~~((excluding Sundays and holidays))~~ after the day the contract is signed or an initial payment is made, as long as the applicant has not begun training; the applicant may request cancellation in any man-

ner, in the event of a dispute over timely notice. The burden of proof rests on the applicant;

(c) The school may retain an established registration fee equal to ten percent of the total tuition cost, or one hundred dollars, whichever is less, if the applicant cancels after the fifth business day after signing the contract or making an initial payment. A "registration fee" is any fee charged by a school to process student applications and establish a student records system;

(d) If training is terminated after the student enters classes, the school may retain the registration fee established under (c) of this subsection, plus a percentage of the total tuition as described in the following table:

If the student completes this amount of training:	The school may keep this percentage of the tuition cost:
One week or up to 10%, whichever is less	10%
More than one week or 10% whichever is less but less than 25%	25%
25% through 50%	50%
More than 50%	100%

~~((e))~~ When calculating refunds, the official date of a student's termination is the last date of recorded attendance:

~~(i))~~ When the school receives notice of the student's intention to discontinue the training program;

~~(ii))~~ When the student is terminated for a violation of a published school policy which provides for termination;

~~(iii))~~ When a student, without notice, fails to attend classes for thirty calendar days.

~~(2))~~ (6) For discontinued programs:

(a) If instruction in any program is discontinued after training has begun or if the school moves from one location to another, it must either:

(i) Provide students pro rata refunds of all tuition and fees paid; or

(ii) Arrange for comparable training at another public or private vocational school. Students must have the opportunity to accept or reject comparable training in writing.

(b) If the school plans to discontinue a program it must notify the agency and affected students in advance. The notification must be in writing and must include at ~~((least))~~ a minimum, the data required under WAC 490-105-210(3).

(c) Students affected by a discontinuation must request a refund within ninety days.

~~((3))~~ (7) For distance education programs:

(a) A student may request cancellation in any manner and upon such request for cancellation being received and recorded by the school demonstrating the last date of attendance and/or completion of a lesson.

(b) The following is a minimum refund policy for distance education courses without mandatory resident training:

(i) An applicant may cancel up to five business days after signing the enrollment agreement. In the event of a dispute over timely notice, the burden to prove service rests on the ~~((applicant))~~ student.

(ii) If a student cancels after the fifth calendar day but before the school receives the first completed lesson, the school may keep only a registration fee of either fifty dollars or an amount equal to fifteen percent of the tuition (~~((in no case is the school entitled to keep))~~), but no greater than a registration fee (~~((greater than))~~) of one hundred fifty dollars~~((3))~~.

(iii) After the school receives the student's first completed lesson and until the student completes half the total number of lessons in the program, the school is entitled to keep the registration fee and a percentage of the total tuition as described in the following table:

If the student completes this percentage of lessons:	The school may keep this percentage of the tuition cost:
0% through 10%	10%
11% through 25%	25%
26% through 50%	50%
More than 50%	100%

(iv) Calculate the amount of the course completed by dividing the number of lesson assignments contained in the program by the number of completed lessons received from the student.

~~((4))~~ (8) Combination distance education/resident training programs:

(a) The following is a minimum refund policy for a distance education program that includes mandatory resident training courses.

(i) Tuition for the distance education and resident portions of the program must be stated separately on the enrollment agreement. The total of the two is the price of the program.

(ii) For settlement of the distance education portion of the combination program, the provisions of the table in subsection (2)(b)(iii) of this section apply.

(iii) For the resident portion of the program, beginning with the first resident class session if the student requests a cancellation, the provisions of the table in subsection (1)(d) of this section apply.

(iv) Calculate the amount of resident training completed by dividing the total number of training days provided in the resident training program by the number of instructional days the student attends resident training.

(b) A distance education student who cancels after paying full tuition is entitled to receive all course materials, including kits and equipment.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-140 (~~What are~~) **Student admission standards**~~((?))~~. (See RCW 28C.10.050 (1)(g).) Prior to enrolling ~~((students))~~ applicants the school must assess ~~((their))~~ the applicants' basic skills and relevant aptitudes to determine that ~~((they have))~~ he or she has the ability to complete and benefit from the training they are considering.

(1) When a school applies for initial licensing under chapter 28C.10 RCW, it must submit a description of the

method it will use to comply with the requirements under this section. Any subsequent change in that method must be reported to the agency no more than fifteen calendar days after the change is adopted.

(2) The school must measure all applicants' ability to benefit against current prerequisites for employment in the job objective established for the program, e.g., prior work and health history, English language proficiency, driving and arrest records, and evaluations of any applicable physiological factors such as vision acuity, color perception, lifting and weight bearing capabilities, and manual dexterity.

(3) Schools may consider that applicants have adequate academic abilities if they have earned a high school diploma, high school equivalency, or General Educational Development (GED) certificate.

(4) Schools may consider that applicants have adequate English language proficiency if they have received:

(a) A high school diploma from a high school where English is the ~~((official))~~ primary language; or

(b) A high school equivalency or General Educational Development (GED) certificate in English; or

(c) A passing score on the Test of English as a Foreign Language, or the International English Language Testing System or a similar language proficiency exam; or

(d) A satisfactory evaluation of the applicant's foreign course work that has been produced by a reputable organization specializing in such evaluations.

(5) The school must test all other applicants. Any academic or English language proficiency test must have the capability of:

(a) Validating that applicants possess skills, competencies, and knowledge that correlate with grades, course or program completion or other measures of success in the program of study; or

(b) Validating that applicants' academic skills, competencies, and knowledge are at a level equivalent to that of persons completing a high school education;

(c) Comparing success ratios of accepted students with test cut-off scores and incorporating appropriate cut-off adjustments.

(6) Any ability to benefit (ATB) test that has been published by the American College Testing Service (ACT) or reviewed and approved by the American Council on Education (ACE) is acceptable evidence of meeting the criteria in subsection (5) of this section.

(7) The following must be part of the methodology developed for assessment:

(a) In the event tests are administered by school officials, evidence the tests are being administered as intended ~~((by the publisher))~~;

(b) Information about the test security procedures employed, evidencing that students have no advance information about the exact questions or tasks and that answers cannot be supplied by a third party while completing the test(s);

(c) Information about test scoring procedures employed, evidencing that if tests are scored by school officials the tests are being evaluated as intended ~~((by the publisher))~~;

(d) Information that the tests are free from information that is offensive with regard to gender, age, native language, ethnic origin, or handicapping conditions.

(8) Records resulting from the ability to benefit assessment must be included as a regular part of all students' records.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-150 (~~What~~) Program, facility, and equipment standards (~~must schools meet?~~). (See RCW 28C.10.050 and 28C.10.060.)

(1) Schools must design and implement programs of quality, content, and duration, and with appropriate entrance criteria, instructional materials, staff, equipment and facilities to prepare students for the program's occupational objectives.

(2) The school must have an exact physical location which:

(a) Is adequate to meet the needs of its students and the objectives of the program;

(b) Provides a modern and effective learning environment with enough classroom, laboratory, and shop space for the number of students to be trained; and

(c) Is maintained in compliance with state laws and local ordinances related to safety and health.

(3) The school must have equipment, furniture, instructional devices and aids, machinery, and other physical features that are:

(a) Adequate in number and condition to achieve the stated educational objectives of the course;

(b) Comparable in number and quality with those used by comparable schools with similar programs;

(c) Comparable to those in current use by the appropriate trade, business or profession; and

(d) Of sufficient quantity for the number of enrolled students.

(4) Schools shall only offer educational services that have been approved by the agency:

(a) All new program or course approval and program revisions shall be submitted to the agency in a format prescribed by the agency for review and approval prior to the proposed date of implementation:

(b) Programs or courses regulated by another agency must have and maintain continuous approval by that agency before the program or course can be submitted to the agency for action:

(c) The withdrawal of approval of a program or course by the other regulatory agency will result in automatic withdrawal of approval of the program or course by the agency.

(5) Schools that have an externship/internship, clinical/practicum, or similar requirement designed as a part of a program shall be approved as part of the program provided the externship/internship. Those programs must comply with the following:

(a) Be part of the approved curriculum of the school and described in the school catalog and directly relate to the intended area of employment.

(b) Be under the coordination of a qualified instructor or faculty member and designate for the direct on-site supervi-

sion of the student to ensure that all hours are completed and program requirements are met.

(c) The location of the externship/internship may be at the schools primary licensed location, at an approved on-site auxiliary location, or another location so long as an affiliation agreement or contract is in place and shall be made available to the agency upon request.

(d) Ensure positions are available for all enrolled students as they progress to the externship/internship portion of the program and that students are timely placed so that the educational instruction is continuous.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-160 (~~What reports are required?~~) Annual student data reporting. (See RCW 28C.10.050 and 28C.10.060.)

In addition to the minimum licensing standards described in RCW 28C.10.050, each school must submit the following information annually for each student who participated in training during the reporting period:

(1) Student name, address, telephone number and Social Security number if provided by the student;

(2) Start date of training and date of completion or drop-out;

(3) Enrollment status as of the end of the reporting period;

(4) Previous education before starting the current training program;

(5) Race;

(6) Date of birth;

(7) Gender;

(8) Disability status;

(9) Hispanic/non-Hispanic;

(10) Program title and duration (in months);

(11) Veteran status;

(12) Grade point average (GPA) or pass/fail;

(13) If complete, what credential earned;

(14) Any other information that the agency deems appropriate.

AMENDATORY SECTION (Amending WSR 01-23-078, filed 11/21/01, effective 12/22/01)

WAC 490-105-170 (~~What actions are prohibited?~~) Unfair business practices.

(1) The term "unfair business practice" under RCW 28C.10.110(11) is further defined to mean those practices described as prohibited under RCW 28C.10.090.

(2) In addition to the actions described in RCW 28C.10.110 it is an unfair business practice for a private vocational school or its agent to:

(a) Advertise, offer, sell, or award any educational credential without requiring the consumer to enroll in and successfully complete a prescribed program of study, as outlined in the school's catalog or brochure;

(b) Represent, directly or by implication, that there is a substantial demand for persons completing any programs offered by the school unless the school has reasonable basis for the representation, documented by objective and statistically valid data:

(c) Make, or perpetuate any false or deceptive statements in regard to any other postsecondary school, whether private or public;

(d) Fail to follow the Private Vocational School Act or its supporting regulations;

(e) Sell, discount, or transfer contracts or promissory notes for tuition to third parties without the signed consent of the student or the student's financial sponsors, and a statement notifying all parties that the cancellation and refund policy continues to apply;

~~((e))~~ (f) Use the availability of financial aid as an inducement to recruitment or enrollment;

(g) Misrepresent to students the potential amount of federal financial aid available;

~~((d))~~ (h) Employ the term "accredited" in advertising unless:

(i) The school holds a current grant of accreditation; and

(ii) The term "accredited" is accompanied with equal prominence by the full name and/or seal of the agency from whom the school holds a current grant of accreditation.

(iii) If the accrediting agency is not recognized by the United States Secretary of Education under the provisions of the Higher Education Act (Chapter 34 C.F.R.), as amended, the school must provide the agency with documentation of its grant of accreditation and other related information required by the agency to establish the nature and scope of the accrediting agency. The agency will approve or disapprove its use in advertising after reviewing submitted documentation. Upon approval, the agency may ask for additional language in the catalog to notify the students that the school does not qualify for federal financial aid.

(i) Discriminate against students or potential students on the basis of race, creed, color, national origin, sex, veteran or military status, sexual orientation, or the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a person with a disability.

(3) Schools are prohibited under RCW 28C.10.110(3) from advertising educational programs under the "help wanted" section of publications. Schools may, however, advertise under a help wanted classification for the purposes of:

(a) Recruiting for bona fide job openings; or

(b) Soliciting job opportunities for available graduates.

(4) To establish consistency in the implementation of this section, the following definitions will apply:

(a) "Advertise" means the publishing by a school of information that establishes its identity, location, and nature of its training programs. It may or may not contain an offer of training.

(b) "Help wanted" section means any classified advertising section in a publication that contains job listings. The particular wording the publication uses to identify such a section is not material.

(c) "Newspaper" means a printed publication containing news, editorials, advertisements, etc. The definition extends to tabloids such as "nickel-savers" that contain primarily or exclusively advertising. It is not material whether the publication is sold or given away.

(d) For purposes of this section, it is not considered "advertising" if a school inserts a notice in a "help wanted"

section referring the reader to a different classified heading in the same issue of the same publication, as long as:

(i) An offer of training is being made by the school under an appropriate other section in the same issue of the same publication; and

(ii) The referral notice contains only the name of the school and not its address, telephone number, or description of program(s); and

(iii) The overall size and general appearance of what appears as a notice is consistent with its purpose only to refer readers elsewhere.

(e) A school shall not advertise as an employment agency or its equivalent.

(f) A school shall not deceptively advertise in conjunction with any other business or establishment.

(5) Schools are prohibited from advertising and making offers of training without including the full name ~~((and/or d/b/a))~~ under which the school is licensed by the agency. Permutations of the name and/or d/b/a such as initials or nicknames can be used only with prior written permission of the agency.

~~(6) ((RCW 28C.10.110(12) makes it an unfair business practice for a school to attempt to recruit students within forty feet of a building that contains a welfare or unemployment office. The term "recruiting" is defined by statute. Other terms employed in the statute are further defined as follows:~~

~~(a) The distance of "forty feet from a building" is measured as a straight line from any doorway affording public access. In instances of buildings with multiple entrances, the distance is measured from any part of the structure.~~

~~(b) When applied to state government, "welfare or unemployment office" means buildings offering public access to provide services to clients of the Washington state employment security department or the department of social and health services.~~

~~(c) When applied to county and municipal agencies, "welfare or unemployment office" means those buildings offering public access for the purpose of providing shelter, food, employment, health, and social services.~~

~~(d) The term "welfare or unemployment office" includes established locations operated by community-based, non-profit organizations for the purpose of providing shelter, food, employment, health, and social services to disadvantaged populations.~~

~~(7))~~ The agency is authorized to deny, revoke, or suspend the license of any school found to have engaged in a "substantial number" of unfair business practices or "significant" unfair business practices. Those two quoted terms are further defined as follows:

(a) The agency may conclude that a substantial number of unfair business practices has occurred when a pattern of persistent violations exists and there are multiple complaints alleging various unfair business practices.

(b) The agency may conclude that unfair business practices are significant when it determines that their egregious nature threaten the operation of the school and/or jeopardize the ability of students to secure contracted services. An abrupt school closure which fails to comply with WAC 490-105-210 provisions may also be considered as significant.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-175 ~~((Under what conditions will a school be determined to be at risk?))~~ **Conditions for placing a school in an "at-risk" status.** ~~((What steps will the agency take if a school is determined to be at risk?))~~

~~((1))~~ A licensed school must demonstrate to the agency that it is financially viable under the requirements established by this section.

(1) The agency considers a school to be financially viable only if it:

(a) Is able to provide the services described in its official publications and statements;

(b) Is able to provide the administrative resources necessary to comply with the requirements of this subsection;

(c) Is able to meet all of its financial obligations including, but not limited to, refunds that it is required to make;

(d) Demonstrates at the end of its latest fiscal year, a ratio of current assets to current liabilities of at or near 1:1;

(e) Had, for its latest fiscal year, a positive net worth. For the purposes of this subsection, a positive net worth occurs when the school's assets exceed its liabilities;

(f) Has not had operating losses over both of its two latest fiscal years. In applying this standard, the agency may consider the effect of unusual events;

(g) Has not had, for its latest fiscal year, an operating deficit exceeding ten percent of the institution's net worth. For purposes of this subsection, an operating deficit occurs when operating expenses exceed revenues from current business activities.

(2) The agency may determine a school is at-risk if it ~~((demonstrates a pattern or history of one or more of the))~~ fails to meet the financial viability conditions described in the definition of at-risk. "At-risk" means the school demonstrates a pattern or history of one or more of the following conditions that the agency determines raise doubts for the continued successful and profitable operation of the organization:

(a) Failure to meet the standards of financial responsibility;

(b) Misrepresentation;

(c) A decrease in enrollment from the previous reporting period of fifty percent or more or twenty-five students, whichever is greater;

(d) Frequent substantiated complaints filed with the agency;

(e) Staff turnover from the previous year of fifty percent or more or three staff, whichever is greater; and

(f) Conditions listed in (c) and (e) of this subsection, caused by unusual circumstances, shall be evaluated by the agency and exceptions may be granted.

~~((2))~~ (3) A school determined to be at-risk may petition the agency to reconsider that designation if the school believes it is unreasonable, unfair, or not in keeping with the intent and purpose of the act. The agency will consider the school's petition and may rescind the at risk designation.

~~((3))~~ (4) The school's owner and/or director will be required to meet with agency staff to discuss the conditions that lead to being designated at-risk.

~~((4))~~ (5) A school determined to be at-risk will be placed on probation and will be required to provide:

(a) A school improvement plan acceptable to the agency within thirty days after meeting with agency staff;

(b) A line of credit if appropriate; and

(c) Monthly progress reports for up to twelve months that include at a minimum:

(i) Steps taken to correct identified deficiencies; and

(ii) Current student directory information.

~~((5))~~ (6) During the probation period the school must demonstrate improvement or the agency will take action to suspend or revoke its license.

~~((6))~~ (7) The agency may publish on its web site, a list of schools whose licenses have been either suspended or revoked.

(8) A school previously deemed "at-risk" but has met its corrective action plan, will be given a provisional license; if at the next renewal the school fails to meet the fiscal requirements, the agency may take action but not limited to, placing the school on at-risk status again.

AMENDATORY SECTION (Amending WSR 08-04-110, filed 2/6/08, effective 3/8/08)

WAC 490-105-180 ~~((How are))~~ **Student complaints** ~~((handled?))~~, (See RCW 28C.10.084(10) and 28C.10.120.)

(1) A complaint must be filed no more than:

(a) One calendar year following:

(i) A resident student's last recorded date of attendance;

or

(ii) The date a distance education school received a student's last completed lesson; or

(b) Sixty calendar days from the date a school ceases to provide educational services.

(2) The agency may extend the time a student has to file a complaint if the student can establish that good faith efforts to obtain satisfaction from the school were being made during the time elapsed.

(3) The term "a person" used to reference a complainant under RCW 28C.10.120(1) is further defined to mean only individuals who established a contractual relationship through their enrollment in a school or, in the case of a minor, the minor's parent or guardian.

(a) Private or public agencies, employers, or others who contract with a private vocational school to provide training services to a particular individual or individuals do not have access to the complaint process.

However, a student enrolled in a licensed private vocational school who has his or her tuition and fees paid by a state agency or business may file a complaint alleging an unfair business practice against a private vocational school. In the event of a determination that the student suffered a loss as a result of an unfair business practice, the agency may require restitution of any amount of tuition and fees the agency or business paid on behalf of the student. In the event of a determination that the student suffered a loss of other costs, such as transportation and child care, that portion of the restitution may be considered for reimbursement.

(b) When a person establishes a financial obligation for only a portion of the contracted costs and is subsidized for the remainder as described under (a) of this subsection, that stu-

dent's claim will be prorated to recognize only the unsubsidized amount.

(4) The agency may consider the following costs when determining losses suffered by a complainant:

- (a) Tuition and fees;
- (b) Transportation costs;
- (c) Books, supplies, equipment, uniforms and protective clothing, rental charges; and
- (d) Insurance required by the school.

(5) In estimating a student's attendance related expenses other than tuition, the agency may use standards developed under Title IV of the Higher Education Act or those of the Washington state departments of employment security and social and health services.

(6) When the agency receives a complaint, it will:

(a) Evaluate the complaint for completeness and to determine eligibility within ten working days after receipt;

(b) Accept or reject the complaint and so notify the complainant within an additional five working days;

(c) Forward a copy of a bona fide complaint and related attachments to the school by certified mail.

(7) The school has fifteen working days after receipt to respond to the student's complaint. If a school fails to submit a timely response the agency will conclude the school has no defense to offer.

(8) Based on all information then available, the agency will:

- (a) Investigate the facts;
 - (b) Secure additional information if so indicated;
 - (c) Attempt to bring about a negotiated solution;
 - (d) Adjudicate the complaint by making findings, conclusions, and determinations; and
 - (e) Notify all parties of the determinations and remedies.
- (9) If a student can document that the procedures used by the agency to resolve a complaint were either unreasonable, unfair, or not in keeping with the intent of the law, the student may request a review of the decision.

(a) The student must request the review in writing within twenty days following receipt of the complaint determination. A timely request stays the agency's determination during the review process.

(b) When the agency receives a request for review it will:

(i) Notify the school that the student has requested a review and that the complaint determination will not take effect until the review has been completed;

(ii) May schedule an informal hearing to be conducted by agency staff; and

(iii) Make a final determination regarding the complaint within fifteen working days following the hearing.

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-190 ((What agency)) Actions ((can)) a school can appeal((?)) (1) In addition to the action described under RCW 28C.10.120(5), a school may appeal the following:

(a) A denial of an exemption under RCW 28C.10.030(6).

(b) A denial, suspension or revocation of licensing under RCW 28C.10.050.

(2) An appeal filed by a school will result in an administrative hearing conducted by a designated hearings officer in accordance with the Administrative Procedure Act, chapter 34.05 RCW (see RCW 28C.10.120):

(a) The hearings officer will make findings and conclusions in accordance with the Administrative Procedure Act, chapter 34.05 RCW. The findings, conclusions, and any recommendations for action will be submitted to the executive director for final action pursuant to RCW 34.05.464.

(b) The executive director may accept or reject, in whole or in part, any recommendations made by the hearings officer, may remand for further findings, or take any other action deemed appropriate under the circumstances, pursuant to the provisions of the act and these rules.

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-200 ((What are the)) Minimum requirements for record retention((?)) (See RCW 28C.10.160.) The school must keep student educational records for a minimum of fifty years from the date of each student's enrollment or until the school ceases to be licensed under this chapter, whichever comes first.

(1) ((("))At a minimum, a student's "educational records" shall include single page transcripts for each student, indicating:

- (a) School name, address and telephone number;
- (b) Student name, address, telephone number, and Social Security number;
- (c) Dates of attendance;
- (d) Course of instruction or subjects attempted;
- (e) Amount of credit, if any, awarded for each subject;
- (f) Grade for each subject completed;
- (g) Date of completion or termination along with notation of the document issued signifying satisfactory completion, if achieved (degree, diploma, certificate);
- (h) If terminated, the reason(s) for termination;
- (i) Signature and title of the certifying officer; and
- (j) Date that transcript is prepared.

(2) On request, the school must provide, without charge, a transcript, described under subsection (1) of this section, to students who have satisfied financial obligations currently due and payable directly to the school. The school may establish and collect a fee for subsequent copies requested.

(3) ((("))Transcripts must be retained in paper or an electronic format and ensure proper retention and security by having an additional form of backup.

(4) The school shall maintain as part of the student's educational record "financial records" ((include the following and must be kept)) for a minimum of three years from the student's final date of enrollment and include at least the following records:

- (a) Signed and completed enrollment agreements and other training related contracts; and
- (b) The student's payment record.

(((")) 5) Financial aid records related to Title IV student financial assistance are not under state jurisdiction, and should be kept in accordance with appropriate federal regulations.

~~((5))~~ (6) Catalogs, and catalog (~~(supplements, and errata sheets must be kept)~~) addenda shall be maintained for one year from their respective dates of publication.

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-210 (~~(What if a)~~) School (~~(closes?)~~) closure. (See RCW 28C.10.060(4); 28C.10.084(9) and 28C.10.160.)

(1) "Ceases to provide educational services" means that a stoppage of training has occurred because:

(a) Facilities are rendered continuously unusable for a period of thirty calendar days or more; or

(b) Faculty or qualified substitutes assigned to a specific class are not available or otherwise fail to perform instructional duties for five or more successive days of scheduled instruction; or

(c) Bankruptcy proceedings or other financial conditions exist that result in the school interrupting scheduled instruction for five or more successive days; or

(d) Adverse action has been taken by a federal, state, or local jurisdiction which result in the school interrupting scheduled instruction for five or more successive days.

(2) The school must take measures to protect the contractual rights of present and former students if it ceases to provide educational services. The school must return its license certificate to the agency within ten calendar days of ceasing to provide educational services or expiration of the school's license, whichever occurs first.

(3) If the school ceases to provide educational services, either voluntarily or involuntarily, it must:

(a) Inform the agency promptly by the most expeditious means available and send confirmation by certified mail within three business days;

(b) Provide the name, address, and telephone number of the person(s) designated to be responsible for fulfilling the requirements of this section;

(c) Provide the agency with the following information for each student who has not completed a course or program:

(i) Name;

(ii) Social Security number;

(iii) Address and telephone number of record;

(iv) Program name and amount of tuition and fees charged;

(v) Amount of tuition and fees paid to date;

(vi) Amount of class time left to complete the course or program; and

(vii) If the tuition and fees were paid through federal student aid, the amount and type of aid.

(d) A written notice must be distributed to all enrolled students at least three business days prior to a planned cessation. The notice must explain the procedures students are to follow to secure refunds or continue their education. A copy of the notice must also be submitted to the agency within three business days;

(e) File with the agency procedures for disbursement of refunds to students and set a date no longer than thirty calendar days from the last day of instruction to issue refund checks in the full amount for which students are entitled.

(4) File with the agency its plans if any, for teach-out; ensuring that all affected students will continue to receive training at another institution of the same quality and content as that for which they contracted:

(a) Arrangements for teaching out students must be filed with the agency;

(b) The agency will verify that students will receive the same kind of program and instructional services as those for which they contracted.

(5) Make pro rata refunds to any student who does not agree, in writing, to comparable training. Refunds must be paid to either the student or his/her parent, guardian or sponsor based on a day-by-day proportion of the services provided compared to the total length of the program.

(6) Make specific arrangements to transfer transcripts and other student records described under WAC 490-105-210 to the agency's custody.

(7) Remove or shutdown the school's web site and cease advertising.

(8) File with the agency any information needed to complete the student data report.

AMENDATORY SECTION (Amending WSR 98-22-033, filed 10/29/98, effective 11/29/98)

WAC 490-105-230 (~~(Do these)~~) Application of rules (~~(apply)~~) to degree-granting private vocational schools (~~(?)~~). (See RCW 28C.10.040(4).) Nondegree programs offered by degree-granting private vocational schools are regulated pursuant to the terms of an interagency agreement executed between the (~~(higher education coordinating board)~~) Washington student achievement council and the workforce training and education coordinating board. Copies of the agreement are available from either agency on request.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 490-105-020 Who administers these rules?

WAC 490-105-090 How often must a license be renewed?

WSR 15-19-136
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed September 22, 2015, 9:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-148.

Title of Rule and Other Identifying Information: Factory assembled structures (FAS) rules, chapter 296-150M WAC, Manufactured homes.

Hearing Location(s): Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Tumwater, WA 98501 (for directions to the L&I office, <http://www.lni.wa>).

gov/Main/ContactInfo/OfficeLocations), on October 30, 2015, at 9:00 a.m.

Date of Intended Adoption: November 17, 2015.

Submit Written Comments to: Alicia Curry, Rules Coordinator, P.O. Box 44400, Olympia, WA 98504-4400, e-mail Alicia.Curry@Lni.wa.gov, fax (360) 902-5292, by 5 p.m., on October 30, 2015.

Assistance for Persons with Disabilities: Contact Alicia Curry by October 15, at Alicia.Curry@Lni.wa.gov or (360) 902-6244.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The FAS program is proposing amendments to sections of chapter 296-150M WAC for manufactured homes. The program reviews the rules on a regular basis to ensure consistency with federal and national safety code requirements and industry standards, to clarify the existing rules, perform housekeeping, etc.

Proposed amendments to this chapter will:

- Adopt the latest code requirements and industry standards for manufactured and mobile homes in the state of Washington;
- Amend the rules for clarity, to improve safety and reflect current processes, for example:
 - o Allow the department to handle consumer complaints regarding manufactured homes;
 - o Process change for submittal of approved fire safety certificates to the county treasurer's office, as opposed to the department; and
 - o Clarify that awnings and/or carports must be constructed without blocking egress doors or windows.
- Update the rules for permits, insignias, plan review, and inspections;
- Amend language for consistency with statutory requirements; and
- Amend language for general housekeeping, grammatical and reference corrections, etc.

Reasons Supporting Proposal: See Purpose statement above.

For more information on this rule making, visit the L&I web site at <http://www.lni.wa.gov/TradesLicensing/Rules/ByTrade/FAS/> or contact the individual below.

Statutory Authority for Adoption: Chapter 43.22 RCW, L&I.

Statute Being Implemented: Chapter 43.22 RCW, L&I.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Dean Simpson, Tumwater, Washington, (360) 902-5571; Implementation and Enforcement: José Rodriguez, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department is exempt from preparing a small business economic impact statement under RCW 19.85.030 (1)(a), since the proposed rules would not impose more than minor costs on businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Alicia Curry, Rules Coordinator, P.O.

Box 44400, Olympia, WA 98504-4400, phone (360) 902-6244, fax (360) 902-5292, e-mail Alicia.Curry@Lni.wa.gov. RCW 34.05.328 applies to the proposed rule pursuant to RCW 34.05.328 (5)(a)(i) as a significant legislative rule of L&I.

September 22, 2015

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 08-12-041, filed 5/30/08, effective 6/30/08)

WAC 296-150M-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, planning considerations, fire safety, or the plumbing, mechanical, and electrical systems of a manufactured home. The installation of whole-house water treatment equipment that requires cutting into the existing plumbing is considered an alteration and requires a permit, an inspection and an alteration insignia.

"Alteration insignia" is an insignia issued by the department of labor and industries to verify that an alteration to a manufactured home meets the requirements of federal law 24 C.F.R. 3280 and this chapter.

"Anchoring system" is the means used to secure a mobile home to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, and other components.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to manufactured homes, ANSI A225.1 Manufactured Homes Installation, 1994 edition, except section 3.5.2 - Ground Cover and section 4.1.3.3 - Clearance.

"Authority having jurisdiction" means that either the department of labor and industries or the local jurisdiction is responsible for establishing specific manufactured home standards. The authority for specific manufactured home standards is divided as follows:

- The department of labor and industries establishes standards for manufactured home installation and alterations and performs alteration inspections;
- The local jurisdiction establishes standards for manufactured homes governing the building site and performs installation inspections.

"Building site" is a tract, parcel, or subdivision of land on which a manufactured home is installed.

"DAPIA" is a Design Approval Primary Inspection Agency as approved by the United States Department of Housing and Urban Development.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, ((Specialty Compliance)) Factory Assembled Structures, P.O. Box 44440, Olympia, WA 98504-4440.

"Design plan" is a design submitted to the department for approval of a manufactured home structural alteration. This also includes other types of work and installations

(plumbing, electrical, etc.) that are incidental to the structural alteration.

"Equipment" means the appliances used in the alteration or installation of a manufactured home.

Examples ~~((of appliances))~~ that require an alteration inspection include:

- Furnace;
- Water heater;
- Air conditioner; ~~((and))~~
- Heat pump; and
- New and extended electrical circuits.

Examples ~~((of appliances))~~ that do not require an alteration inspection include:

~~((• Microwave oven;))~~

- Washer;
- Dryer; and
- Dishwasher and range that are connected to their source of power by a plug-in cord.

"Equivalent air conditioning/heat pump components" is equipment that performs the same function and is compatible with the equipment of another manufacturer, sometimes referred to as mix and match.

"Footing" is the portion of a support system that transmits loads from the manufactured home to the ground.

"Foundation skirting" or **"skirting"** is the material that surrounds and encloses the space under the manufactured home.

"Homeowner" is an individual who owns a manufactured home. Dealers, distributors, and developers are not regarded as homeowners.

"HUD" is the United States Department of Housing and Urban Development with headquarters located in Washington, D.C.

"Indigent" means a person receiving an annual income, after taxes, of one hundred twenty-five percent or less of the most recently published federal poverty level.

"Installation" is the activity needed to prepare a building site and to set a manufactured home within that site. Site means a tract, parcel, or subdivision of land including a mobile home park.

"Installed manufactured or mobile home" is a manufactured or mobile home that has been placed on either private property or in a park and has been installed for occupancy. Installation includes the approval of the blocking of the home, and the connection of the home to all of the utilities, including water, sewer and electrical.

"IPIA" is a manufactured home production Inspection Primary Inspection Agency approved by the United States Department of Housing and Urban Development. The department of labor and industries is the IPIA for Washington state.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the building site and installation of a manufactured home.

"Manufactured home" is a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety

Standards Act, which is a national, preemptive building code. A manufactured home also:

- Includes plumbing, heating, air conditioning, and electrical systems;
- Is built on a permanent chassis; and
- Can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported; or when installed on the site is three hundred twenty square feet or greater (see RCW 46.04.302).

Note: Total square feet is based on exterior dimensions measured after installation using the longest horizontal projections. Dimensions may not include bay windows but may include projections containing interior space such as cabinets and expandable rooms.

Exception: A structure that meets the requirements of a manufactured home as set out in 24 C.F.R. 3282.7(u), except the size requirements is considered a manufactured home, if the manufacturer files with the secretary of HUD a certificate noted in C.F.R. 3282.13.

"Mobile home" is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD Manufactured Home Construction and Safety Standards Act. For the purposes of this chapter references to manufactured homes include mobile homes.

"Park site" is the installation location of a manufactured home within a residential area for manufactured homes.

"Repair" is to restore an item to sound condition, to fix.

"Replacement" is the act or process of replacing, to substitute.

"State administrative agency (SAA)" the department of labor and industries shall perform all the consumer complaint and related functions ~~((of the state administrative agency))~~ that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing including the preparation and submission of the state administrative plan.

"Structural alteration-custom design" is a design that can only be used once.

"Structural alteration-master design" is a design plan that can be used more than once. The master plan expires when there is a code change applicable to the design.

"System" is part of a manufactured home designed to serve a particular function such as structural, plumbing, mechanical, or electrical functions.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0060 Who handles consumer complaints about manufactured homes? The Washington state department of ~~((community, trade and economic development (CTED), office of manufactured housing section))~~ labor and industries (L&I), factory assembled structures program, handles consumer complaints about manufactured homes. ~~((CTED))~~ Labor and industries, factory assembled structures program is the state administrative agency (SAA) for the

United States Department of Housing and Urban Development for the federal manufactured home program.

AMENDATORY SECTION (Amending WSR 08-12-041, filed 5/30/08, effective 6/30/08)

WAC 296-150M-0300 What approval do I need to alter a manufactured home? If you alter a manufactured home in Washington state, you must purchase permits prior to making an alteration. This includes:

- (1) Alterations made by a contractor working for a homeowner;
- (2) Alterations made by a homeowner to their own home; ~~(and)~~
- (3) Alterations made by a dealer after a manufactured home is sold; and
- (4) The person or contractor performing the work is responsible for purchasing the permit and abatement of corrections, if applicable.

Note: The homeowner can't purchase a permit on behalf of the contractor.

AMENDATORY SECTION (Amending WSR 05-24-020, filed 11/29/05, effective 1/1/06)

WAC 296-150M-0302 What are some examples of work to manufactured or mobile homes that either require or do not require a permit and inspection?

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(1) Air Conditioner/Heat Pump		
(a) New installation	X	
(b) Replacement	X	
(c) Reconnection after moving home	X	
(d) Repair		X
(e) Adjustment and/or maintenance		X
(2) Bottom Board - Repair		X
(3) Clothes Washer		
(a) New installation		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(4) Clothes Dryer (Electric)		
(a) New installation (Prewired electrical)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas clothes dryer when modifications to electrical or gas systems are performed	X	
(5) Clothes Dryer (Gas)		
(a) New installation (Preplumbed gas)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(e) Replacement with electric clothes dryer when modifications to electrical or gas systems are performed	X	
(6) Dishwasher		
(a) New installation	X	
(b) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(7) Doors (Interior and Exterior)		
(a) Additional*	X	
(b) Replacement of door that fits into the same opening		X
(8) Electrical		
(a) Replacing main electrical panel*****	X	
(b) Adding circuits	X	
(c) Extending existing circuit(s)	X	
(d) Replacing lighting fixtures****		X
(e) Replacing circuit breakers/fuses		X
(f) Replacing switches, receptacles, light bulbs, fluorescent tubes and glass or plastic shades		X
(g) Repairing bath exhaust fans		X
(h) Repairing fans in kitchen range hoods		X
(9) Exterior Finish		
(a) Painting		X
(b) Replacement of siding	X	
(10) Furnace (Electric)		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas furnace	X	
(11) Furnace (Gas)		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Change from LP Gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(e) Adjustment and/or maintenance		X
(f) Replacement with electric furnace	X	
(12) Gas Lines		
(a) New installation	X	
(b) Extend existing gas line	X	
(c) Repair	X	
(13) Interior		
(a) Painting, wall papering and similar finish work		X

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(b) Replacement or addition of curtains, drapes, blinds, window shades and other window coverings		X
(c) Replacement of carpeting and other floor-covering materials with similar materials		X
(14) Microwave Oven (Over range)		
(a) New installation when electrical system modifications are performed	X	
(b) Replacement		X
(c) Repair		X
(d) Adjustment and/or maintenance		X
(15) Microwave Oven (Countertop)		X
(16) Pellet Stove		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(17) Plumbing		
(a) Adding plumbing fixtures***	X	
(b) Repairing damage***	X	
(c) Replacing fixtures***	X	((X))
(d) Repairing fixtures***		X
(e) Replacement/repair of shower doors and curtains		X
(18) Range/Cook Top/Eye Level Oven (Electric)		
(a) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(b) Repair with approved parts		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas appliance(s)	X	
(19) Range/Cook Top/Eye Level Oven (Gas)		
(a) New installation	X	
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric appliance(s)	X	
(20) Roofing		
(a) Reroofing	X	
(b) Applying liquid or mastic roof sealant to a metal roof		X
(c) Repair of damaged composition shingles		X
(21) Structural changes		
(a) Adding a dormer*	X	
(b) Truss repairs*	X	
(c) Add opening in wall**	X	
(d) Add gypsum board to walls or ceilings	X	
(e) Repair or replacing floor decking/joists	X	

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(22) Water Heater (Electric)		
(a) Replacement w/electric water heater	X	
(b) Repair		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas water heater	X	
(23) Water Heater (Gas)		
(a) Replacement w/gas water heater	X	
(b) Repair		X
(c) Change from LP gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric water heater	X	
(24) Windows		
(a) Replacement in same opening with no structural changes*****		X
(b) Replacement when structural changes are required	X	
(c) Replacement of glass		X
(25) Wood Stove/Fireplace		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X

*May also require a plan review. Please contact your local L&I representative.

** May also require a plan review. The department has detailed drawings you may use for openings in sidewalls. Please contact your local L&I representative.

***Fixtures include: Faucets, sinks, lavatories, laundry tubs, water closets (toilets), tubs, showers and tub/shower combos. A permit is not required for replacement of a like fixture as long as there are no changes to the existing water or drain lines.

****Fixtures must be installed per its listing and intended use.

*****Windows in bedrooms must be of egress type.

*****Meter bases may only be installed by the manufacturer of the home unless repaired or replaced.

Note: Exemption from the permit and inspection requirements shall not be deemed to grant authorization for any work to be done in violation of the applicable code, chapter 296-150M WAC.

AMENDATORY SECTION (Amending WSR 08-12-041, filed 5/30/08, effective 6/30/08)

WAC 296-150M-0306 What codes and requirements are ((used)) applicable when altering a manufactured/mobile home? Alterations to a manufactured/mobile home must be in compliance with the Manufactured Home Construction and Safety Standards, 24 C.F.R. Part 3280, as adopted by the Secretary for the Department of Housing and Urban Development (HUD) and the amendments to that federal standard adopted in this WAC chapter. The department will accept the following provisions, which supersede the applicable requirements in 24 C.F.R. Part 3280.

(1) Tested equivalent air (~~(conditioning)~~) condition/heat pump components that have been tested and listed for use with a particular furnace by a nationally recognized testing laboratory(-) or air conditioners and heat pumps that are rated in accordance with Air-Conditioning, Heating and Refrigeration Institute (AHRI) standards. The blower motor of the furnace and/or air handler shall be tested at the time of installation to verify and document adequate cubic feet per minute of air flow as required by the manufacturer. Documentation of the blower motor test (such as a start-up sheet) is required to be provided on-site for the inspector at the time of inspection.

(2) Water heaters that are listed by a nationally recognized testing laboratory and installed per the manufacturer's installation instructions.

Note: For installation of electrical or gas furnaces and/or water heater in pre-HUD homes, the requirement of 24 C.F.R. Part 3280.203 for flame spread limitations is waived as long as the installation meets the requirement of the installed appliance for distance from combustibles. This does not apply when performing fire safety alterations for relocation as required by state law.

(3) Pellet stoves for installation that have been listed by a department approved nationally recognized testing laboratory. For a current list of approved laboratories, contact any department field office or the department at the address shown in WAC 296-150M-0020.

(4) All electrical alterations and additions to the manufactured/mobile home shall comply with the current edition of the National Electrical Code.

Electrical disconnects must be secured to a manufactured/mobile structural member (not the skirting) and have a 30" x 30" clearance for maintenance.

(5) The International Residential Code for structural alterations.

Note: The replacement of exterior siding is an alteration and requires the approval of the department and an alteration insignia.

(6) The use of corrugated stainless steel tubing (CSST) is allowed when installed according to the manufactured installations instructions for mobile/manufactured homes by the following CSST manufacturers:

- (a) Gastite;
- (b) TracPipe;
- (c) Pro-Flex.

(7) Installation of gas room heaters in bedrooms must:

(a) Have direct vented (sealed combustion) and be listed as UL 307A for liquid fuel burning heater or ANSI Z21.88 and ANSI Z21.86 for vented gas fireplaces.

(b) ~~((Not be able to draw combustion air from the living space and must be designed so that it will become inoperative if any door, latch, or opening is not properly sealed.~~

~~((e))~~) Have a smoke detector, listed to Underwriters Laboratory (UL) 217. The smoke detector can either be hard-wired or battery powered (ten-year battery) and installed according to the manufacturer's installation requirements.

~~((d))~~) (c) Have a carbon (~~(dioxide (CO₂))~~) monoxide (CO) detector, listed to UL 2034. The CO(~~(2)~~) detector must be installed according to the manufacturer's installation requirements.

~~((e))~~) (d) Have at least one means of egress.

(8) Carbon monoxide alarms are required to be installed in manufactured and mobile homes in accordance with RCW 19.27.530 adopted by the Washington state building council.

(a) For any owner-occupied single-family residence that is sold on or after July 26, 2009, the seller must equip the residence with carbon monoxide alarms in accordance with the requirements of the state building code before the buyer or any other person may legally occupy the residence following such sale.

(b) Maintenance of a carbon monoxide alarm in a building where a tenancy exists, including the replacement of batteries, is the responsibility of the tenant, who shall maintain the alarm as specified by the manufacturer.

(c) Real estate brokers licensed under chapter 18.85 RCW shall not be liable in any civil, administrative, or other proceeding for the failure of any seller or other property owner to comply with the requirements of this section or rules adopted by the building code council.

AMENDATORY SECTION (Amending WSR 05-24-020, filed 11/29/05, effective 1/1/06)

WAC 296-150M-0309 How do I apply for alteration approval and obtain an alteration insignia? (1) To apply for alteration approval and the alteration insignia, you must:

(a) Complete an alteration permit form and an application for alteration insignia. ~~((We will provide the forms upon request.))~~ You may purchase a permit online at the L&I web site or by visiting the nearest L&I office.

(b) If applying using paper forms, submit the completed forms to ~~((us))~~ the department, with the first hour of inspection fee and alteration insignia fee. Alterations requiring more than one inspection shall have the first hour inspection fee paid to the department prior to ~~((any))~~ additional inspections. (See WAC 296-150M-3000.)

(2) The request for inspection of your alteration should be at least five days before the date you want the inspection.

(3) Once we approve your alteration, we will attach the alteration insignia to your manufactured home.

Note: Specifications, engineering data, and test results should be available for our inspector. If applicable, your approved design plan must also be available during the inspection.

(4) The department will ~~((send))~~ provide written ~~((notification to the local jurisdiction))~~ approval in the form of a fire safety certificate to the owner. The owner is required to forward this information to the authority having jurisdiction (AHJ) and/or county treasurer's office in which the mobile home will be located, if the mobile home ~~((fails))~~ passes the department's fire safety alteration inspection.

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 5/30/03)

WAC 296-150M-0320 What must I provide to request approval of an alteration? (1) For approval of an alteration, you must complete and return our alteration permit application form. The application must contain:

(a) A description of the proposed alteration(s);

(b) Applicable specifications, manufacturer's instructions, engineering data, test procedures and results; and

(c) Payment of the alteration permit fee, alteration insignia fee, and any inspection fees. (See WAC 296-150M-3000.)

Note: The department may waive alteration permit fees for indigent permit applicants. (See WAC 296-150M-0322.)

(2) For approval of a structural alteration, we must approve the design plan. This is in addition to the requirements stated in subsection (1) of this section. (See WAC 296-150M-0370.)

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0330 How do I obtain alteration insignia information and the forms you require? ~~((Upon request, we will provide you with the forms and the fee schedules needed to obtain an alteration insignia or you can contact any department of labor and industries office for the forms. Our address is noted in the definition of department.))~~ Information to obtain alteration insignia information and forms may be found online at the L&I web site or by contacting an L&I office.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150M-0331 Does my alteration permit expire? Yes, your alteration permit will expire one year after the date of purchase. ~~((Alteration permits purchased prior to January 1, 1998, will expire on December 31, 1998. Alteration permits purchased after January 1, 1998, will expire one year after the date of purchase.))~~

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 5/30/03)

WAC 296-150M-0360 When is design plan approval required for an alteration? (1) Design plan approval is required when you make a structural alteration to your manufactured home. A design plan approval may require engineering by a professional engineer currently licensed and certified in the state of Washington.

(2) A structural alteration is a change to the body or frame of a manufactured home. For example:

(a) An alteration is made if you change the size of a room or the pitch of a roof on your manufactured home.

(b) Any addition such as a carport that adds structural load to the manufactured home and is not fully self-supporting is an alteration.

(c) Alterations or installations of other types of work (plumbing, electrical, etc.) that are incidental to the structural alteration.

(d) Rebuilding portions of the home or reroofing over existing roof.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0390 If my design plan is not approved, how much time do I have to submit a corrected

plan? (1) You have ninety days to correct and resubmit your original design plan and send us ~~((the))~~ any applicable resubmittal fee after we notify you of plan deficiencies. After ninety days, your initial design plan is returned to you.

(2) If you submit your corrected design plan after ninety days, you must send the initial design plan fee instead of the resubmittal fee. (See WAC 296-150M-3000.)

AMENDATORY SECTION (Amending WSR 08-12-041, filed 5/30/08, effective 6/30/08)

WAC 296-150M-0410 What are the requirements for altering mobile/manufactured homes? (1) Roof over framing (dormer) additions to manufactured/mobile homes must meet the following requirements:

(a) Maintain a minimum twenty pound roof, live load, and provide documentation to the department.

(b) The dead load for the dormer must be the difference between the live load design of the roof and the roof design snow load of the manufactured/mobile home location (as per Snow Load Analysis for Washington, by Structural Engineers Association of Washington).

(c) Existing roofing material, other than the sheathing, must be completely removed under the dormer.

(d) An engineering analysis shall take into account the wind load on the structure, when the dormer extends above the original ridge line of the manufactured/mobile home.

(e) The engineer or architect of record must clarify in writing on the original stamped drawings that the design plans may be used on other manufactured/mobile homes of the same live load, for generic designs that are to be used more than one time.

(f) Submit all manufactured/mobile home alterations to the department to be reviewed by plan review for compliance.

(2) Reroofing of a manufactured/mobile home must be installed and vented according to the manufacturer's installation instructions. Installation of underlayment must follow the shingle manufacturer's LOW SLOPE INSTALLATION INSTRUCTIONS and/or the Asphalt Roofing Manufacturers Association (ARMA) instructions for installations under 4/12 pitch. For roof pitches above 4/12, the manufacturer's installation instructions or ARMA installation instructions still apply.

(a) Existing asphalt roof will require removal of the original asphalt roofing material prior to the installation of new asphalt roofing.

Reuse of plastic skylights is not allowed. Skylights must be curb mounted type and step flashed per roofing manufacturer and/or ARMA requirements.

(b) If the original asphalt roofing material is not removed and a second layer of asphalt roofing is added, an engineering analysis must be completed to ensure that the existing roof structure can support the additional load while maintaining a 20 pounds per square foot (psf) live roof load, or maintaining the specified roof load listed on the homes data compliance certificate.

(c) Metal roofing with or without insulation board applied after removing existing asphalt shingles must:

(i) Follow the roofing manufacturer's installation requirements.

(ii) Maintain minimum pitch of the roof as required by the roofing manufacturer's installation requirements.

(d) Metal roofing with or without insulation board over an existing metal roof must:

~~Allow the metal roof to be installed over another metal roof as required by the manufacturer's installation requirements.~~

~~(3)) be installed per the manufacturer's installation requirements.~~

Skylights installed in mobile or manufactured homes with metal roofing must be installed with specific installation instructions. Installations, if not curb mount factory flashed type, shall be flashed and counter flashed per specific installation instructions detailed by the skylight manufacturer or the metal roofing manufacturer.

(e) Bonding of noncurrent-carrying metal parts: All exposed noncurrent-carrying metal parts that become energized shall be effectively bonded to the grounding terminal or enclosure of the distribution panel board (note: This includes metal roofing pursuant to MCHSS 3280.809(d)). A bonding conductor shall be connected between each distribution panel board and an accessible terminal on the chassis.

(3) Grounding terminals shall be of the solderless type and approved as pressure-terminal connectors recognized for the wire size used. Star washers or other approved paint-penetrating fitting shall be used to bond terminals to chassis or other coated areas. The bonding conductor shall be solid or stranded, insulated or bare and shall be No. 8 copper minimum, or equal. The bonding conductor shall be routed so as not to be exposed to physical damage. Protection can be afforded by the configuration of the chassis.

(4) Replacing floor decking must meet the following requirements:

(a) Plan review is not required for the following:

(i) The floor decking being replaced is not greater than ~~((forty-eight inches by ninety-six inches))~~ eight feet by sixteen feet of each section of home. All edges shall be blocked.

(ii) Two-by-six blocking is added to each floor joist and secured with 16d nails at six inches on center.

(iii) Two-by-six blocking is added at the ends of the cut such that one-half is under the existing decking and one-half is under the decking being replaced and is secured with 16d nails, two at each joint.

(iv) ~~((Adding))~~ Floor decking ((that is)) must be the same thickness and grade as originally installed.

(v) Adding decking that is secured with construction adhesive bead and #8x1-3/4 inch screws at six inches on center.

(b) Plan review is required, but engineering will not be required under the following condition:

(i) The floor decking being replaced is greater than ~~((forty-eight inches by ninety-six inches))~~ eight feet by sixteen feet.

(ii) The decking being replaced is no more than fifty percent of the floor length, each section of home.

(iii) The decking being replaced is no more than seventy-five percent of the floor width, each section of home.

(c) If the floor decking being replaced is greater than ~~((forty-eight inches by ninety-six inches))~~ eight feet by sixteen feet of each section of home, both plan review and engineering will be required.

(d) On generic designs that are to be used more than once, an engineer or architect must clearly state in writing on the original stamped drawings that the design plans may be used on other manufactured/mobile homes of the same manufacturer.

~~((4))~~ (5) Additions (i.e., rooms, garages, carports, etc.) added to manufactured/mobile homes.

(a) Labor and industries factory assembled structures section is responsible for any alterations to the manufactured/mobile home. This includes:

(i) Any opening that is added or changed.

(ii) Electrical circuits added to the addition that come from the electrical panel in the manufactured/mobile home.

(iii) Using the manufactured/mobile home for support of the addition.

(b) A plan review is required when adding an addition to a manufactured/mobile home for:

(i) Openings not constructed per the department.

(ii) Manufactured/mobile homes which use the structure for support of the addition.

(iii) Adding a dormer on the home.

Note: An engineer or architect licensed in Washington state must design the plans and seal the plans and calculations. The department's FAS plan review section will perform a plan review.

(c) Labor and industries electrical section is responsible for any electrical circuits added to ~~((the))~~ a manufactured/mobile ((home)) home's addition that comes from the pedestal where the electrical section has electrical inspection authority. Some cities have electrical inspection authority and would make those electrical inspections in their jurisdiction.

(d) Local jurisdiction (city or county) is responsible for the inspection of the addition except as noted above.

(e) Items to pay particular attention to:

(i) If the addition is being served by a required egress door:

- The lock must be removed and nonlocking passage hardware installed or the door may be removed entirely leaving a passageway. One of the required egress doors must be accessible from the doorway of each bedroom without traveling more than thirty-five feet.

- An exit door at least equal in size to the one removed must be installed in the addition.

(ii) If the addition is being served by a 3rd door and the other doors meet the egress requirements outlined above, no changes to the exterior door are required.

(iii) Electrical circuits run from the manufactured/mobile home electrical panel must:

- Be in conduit if routed under the home; and
- Terminate at the edge of the home in a junction box.

(iv) The addition may be flashed to the manufactured/mobile home for purposes of sealing the exterior joint and may have trim installed on the interior for finishing.

~~((5))~~ (6) Attaching awnings and carports and garages.

(a) Self-supporting awnings and carports.

When awnings and carports are self-supporting they may be flashed to the manufactured/mobile home and no permit is required from L&I FAS section. The awnings and/or carports must be constructed to not block required egress doors or windows. Please check with your local jurisdiction building department for any permits required by them.

(b) Awnings and carports using the home for support.

Aluminum or wood awnings and carports that use the manufactured/mobile home for support will need to:

- Have the connections to the home designed and the additional load on the home analyzed by an engineer or architect licensed in Washington state. The engineer or architect will need to seal these designs and calculations;

- The installer must submit the designs to the FAS plan review section for a review; and

- The installer must have the installation inspected, after the plans are approved.

(c) Manufactured home comes from factory garage ready.

If the manufactured home comes from the factory garage ready, no inspection is required by L&I. Garage ready from the factory means:

- Dormers, if required, are installed by the factory;
- All gypsum board required on the home has been installed at the factory;

- Any door between the home and the garage meets the requirements for separation of a residence from a garage as required by the building code;

- All electrical installations meet the requirements of the National Electrical Code for one hour walls;

- The dryer outlet termination has been designed at the factory to not exhaust into the garage; and

- No other changes are required to the manufactured home at the installation site.

Note: If any changes are required to the manufactured home at the installation site, an alteration permit is required from the department.

(d) Manufactured/mobile home is not garage ready.

If the manufactured/mobile home is not garage ready when it leaves the factory, an alteration permit is required. Engineering analysis and plan review may also be required if additional loads are placed upon the home or openings are made or changed.

The following are some examples of when a plan review would be required:

- A dormer is added;
- An opening in the home is made or changed (note: Openings constructed to the department's approved details would not require a plan review); and

- Gypsum board is added to the wall of the home.

Items to also be aware of:

When a garage is to be attached to a manufactured/mobile home, the following must also be considered:

- The means of egress through exterior doors is not compromised (two are required);

- The means of egress from the bedroom(s) is not compromised (one egress directly to the exterior from each); and/or endwalls are usually shearwalls and any additional openings in them will need an engineering analysis and plan review to substantiate.

~~((6))~~ (7) Decertification of a manufactured/mobile home.

(a) Can only be decertified if the jurisdiction having authority will allow the unit to remain on the property.

(b) All electrical components, including the electrical panel, receptacles, switches and light must be removed and wires cut to where they enter the device.

(c) All plumbing fixtures and exposed plumbing water, drain and waste lines must be cut off where they enter any wall, floor or ceiling.

(d) All mechanical components including water heaters, furnaces, and kitchen appliances must be removed from the home.

(8) Installation of gas lines on manufactured homes:

(a) Gas lines must be material approved for gas distribution in manufactured/mobile homes.

(b) Must have a report available showing that the gas line tests were completed successfully. Either of the following shall be acceptable:

(i) A "Gas Piping Test Affidavit" completed and witnessed by a Washington state registered mechanical contractor representative who shall prepare a report. The test shall meet the requirements of the current HUD C.F.R. 3280 705 (8)(i)(ii).

(ii) The test must be witnessed by an L&I inspector.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-0500 When must an inspection be requested? (1) You must purchase a permit and request an inspection by us, if you are altering a manufactured home. Note: Purchasing the permit is not the same as requesting the permit. You may request an inspection online at the L&I web site, in person at the time of purchase, or by calling an L&I office.

(2) You must request an inspection by the local enforcement agency, for manufactured home installations. Note: In some jurisdictions it may be the department that performs the installation inspection.

(3) The installation of manufactured homes must be enforced and fees charged by the counties and cities in the same manner the State Building Code is enforced under RCW 19.27.050.

AMENDATORY SECTION (Amending WSR 05-24-020, filed 11/29/05, effective 1/1/06)

WAC 296-150M-0540 How do I obtain a fire safety certificate to site my pre-HUD home(=)? In order to install a pre-HUD home in Washington, you will need to obtain and pass an inspection by the department. To apply for a fire safety certificate, you must:

(1) Complete an alteration permit form and a fire safety certificate application. We will provide you the forms on request.

(2) A fire safety preinspection checklist can be obtained at your local labor and industries office or on the web at <http://www.lni.wa.gov/tradeslicensing/fas>.

(3) Submit the completed forms to ~~((us))~~ the department, with the ~~((first hour of))~~ inspection fee and the site placement

form. (~~Alterations requiring more than one inspection shall have the first hour of inspection paid to the department prior to each additional inspection. The following fees will need to be paid: Electrical fire safety, structural fire safety, insignia fees for fire safety.~~) (See WAC 296-150M-3000, Manufactured/mobile home fees.)

(4) Any other alterations to the home that have not been previously inspected and approved by the department will cause the approval of this inspection to be denied. A permit and inspection will need to be completed for these alterations before approval of the fire safety certificate is issued.

(5) Once we approve the inspection, we will provide you with a completed alteration permit and fire safety certificate.

Note: After the home has been sited, any subsequent move will require a separate fire safety certificate. RCW 46.44.170.

AMENDATORY SECTION (Amending WSR 05-24-020, filed 11/29/05, effective 1/1/06)

WAC 296-150M-0550 What is required to meet the fire safety certificate requirements? You will need to complete the following requirements for your pre-HUD home. (A pre-HUD home is defined as a mobile home manufactured before June 15, 1976, not built to the HUD standards.)

(1) **Wiring system.** Aluminum wiring is not permitted for use in fifteen and twenty amp branch circuits. You must do one of the following:

(a) Rewire the fifteen and twenty amp branch circuits in copper.

(b) Install receptacles and switches that are approved for the use of either aluminum or copper (i.e., they will be marked AL/CU); or

(c) Install copper "pig tail" connections using (~~wiring nuts~~) wire connectors approved for aluminum wire between the aluminum wire and the receptacle/switch/light fixture/bath and fans/range hoods.

Additionally, if the circuit breakers in the electrical panel for fifteen and twenty amp circuits are not approved for aluminum wiring, the breakers either need to be replaced with those that are acceptable for aluminum wire or they need to be (~~pit~~) pig tailed with copper wire and wire nuts acceptable for aluminum wire.

(2) **Fire protection.**

(a) Walls, doors and ceilings in the water heater and furnace compartments shall be protected by materials with a flame spread rating not exceeding twenty-five. (This can be met with gypsum wallboard having a minimum thickness of 5/16 inch or ceramic tile.)

(b) The range hood must be at least as wide as the appliance and have a lower front edge or "eyebrow" which extends at least three inches past the cabinet above.

(c) The surfaces of the exposed walls adjacent to and within six inches of a range or cooktop appliance must be composed of gypsum wallboard, with a minimum thickness of 5/16 inch, or ceramic tile. Kitchen cabinets constructed of combustible material that is located above a range or cooktop must be a minimum of twenty-four inches above the cooking surface. The cabinets must be protected on the bottom and on the exposed sides within six inches of either side of the appliance, by covering the surface with gypsum wallboard, with a

minimum thickness of 5/16 inch, and installing a metal hood above the cooking appliance. A minimum of 3/8 inch gap is required between the cabinet and the gypsum on top of the hood.

(d) No window may be within twelve inches of the edge of a burner or element of the cooking appliance.

(3) **Emergency egress.**

(a) Every bedroom or other room designed expressly for sleeping purposes must have a window that meets the minimum requirements of at least 5.0 square feet of opening for emergency egress.

(b) Rooms that have a door, with a minimum clear opening of twenty-eight inches wide by seventy-two inches high, which opens directly to the outside do not need to have an emergency egress window.

(c) Windows and devices must be installed in a manner which allows for proper operation.

(d) The bottom of the opening of an egress window shall be no more than thirty-six inches above the floor.

(e) The height of the bottom of the window can be increased to forty-four inches when the clear net area is increased to 5.7 square feet of opening.

(4) **Smoke detectors.**

(a) Smoke detectors are required at each hallway or area giving access to a bedroom or group of bedrooms. When a furnace is located in the hall giving access to the bedrooms, the detector is to be located between the living area and the return air grill of the furnace.

(b) Smoke detectors must be installed on a wall and must be permanently wired and installed on a J-box with splices terminating inside the box.

(c) A smoke alarm with a rated life of ten years and provided with a listed ten year battery can be used in lieu of wired smoke detector.

(d) The smoke detector may not be switched and if more than one smoke detector is installed, then each one is to be wired on a different branch circuit.

(e) Smoke detectors do not need to be wired together to sound simultaneous alarms.

WSR 15-19-137
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed September 22, 2015, 9:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-16-096.

Title of Rule and Other Identifying Information: Chapter 296-19A WAC, Vocational rehabilitation.

Hearing Location(s): Labor and Industries (L&I) Building, Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501, on October 27, 2015, at 1:00 p.m.

Date of Intended Adoption: November 17, 2015.

Submit Written Comments to: Laurinda Grytness, P.O. Box 44329, Olympia, WA 98504-4329, e-mail laurinda.

grytness@lni.wa.gov, fax (360) 902-5035, by October 27, 2015, 5:00 p.m.

Assistance for Persons with Disabilities: Contact L&I's return to work partnerships program by October 13, 2015, TTY (360) 902-5797 or (360) 902-6741.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules explain the vocational Option 2 benefits available to injured workers and outline the responsibilities of the department, self-insured employers, and vocational rehabilitation counselors in connection with Option 2. The rules, if adopted, clarify which workers are eligible for increased vocational Option 2 benefits. Eligible workers can receive a vocational Option 2 award equal to nine months of temporary total disability benefits, can use up to ten percent of training funds for vocational assistance, and have a longer period of time to make their Option 2 selection. In addition, the proposed rules clarify that the highest priority is returning the injured worker to employment.

Reasons Supporting Proposal: Rule making is needed to implement chapter 137, Laws of 2015 (SHB 1496).

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030, chapter 137, Laws of 2015 (SHB 1496).

Statute Being Implemented: Chapter 137, Laws of 2015 (SHB 1496).

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

Name of Proponent: [L&I], governmental.

Name of Agency Personnel Responsible for Drafting: Laurinda Grytness, Tumwater, Washington, (360) 902-6362; Implementation: Mike Ratko, Tumwater, Washington, (360) 902-6369; and Enforcement: Victoria Kennedy, Tumwater, Washington, (360) 902-4997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule is interpretative and adopts and incorporates without material change chapter 137, Laws of 2015 (SHB 1496).

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required because the rule is interpretative and adopts and incorporates without material change chapter 137, Laws of 2015 (SHB 1496).

September 22, 2015

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 11-23-070, filed 11/15/11, effective 12/16/11)

WAC 296-19A-030 What are the responsibilities of the parties? The attending health care provider, department, self-insured employer, employer, worker and vocational rehabilitation provider have the following responsibilities in assisting the worker to become employable at gainful employment:

(1) **Attending health care provider.** The attending health care provider must:

(a) Maintain open communication with the worker's assigned vocational rehabilitation provider and the referral source.

(b) Respond to any request for information which is necessary to evaluate a worker's:

(i) Ability to work;

(ii) Need for vocational services; and

(iii) Ability to participate in a vocational retraining plan.

(c) Do all that is possible to expedite the vocational rehabilitation process, including making an estimate of the physical or mental capacities that affect the worker's employability. If unable to provide an estimate, refer the worker for the appropriate consultation or evaluation.

(2) **Department.**

(a) **State fund claims.** For state fund claims, the department must:

(i) Obtain medical information required to initiate vocational rehabilitation services before a referral is made to a vocational rehabilitation provider.

(ii) Notify the chargeable employer(s), if any, at the time any referrals are made to a vocational rehabilitation provider.

(iii) Provide the vocational rehabilitation provider with access to all reports and any other relevant documentation generated during prior vocational rehabilitation services including plans that have been provided on any claim.

(iv) Review the assessment report and determine whether the worker is eligible for vocational rehabilitation plan development services.

(v) Notify all parties of the eligibility determination in writing. When the worker is eligible for plan development services, the notification letter must advise that the chargeable employer(s), if any, has fifteen calendar days from the date of the letter to make a valid return to work offer. However, should the employer attempt to make a valid return-to-work offer within the fifteen calendar days, the department may grant up to ten additional calendar days to modify the offer if it does not meet all of the requirements for approval.

(vi) Assign plan development services to the vocational rehabilitation provider that completed the assessment report unless the department decides the provider cannot complete the required report.

(vii) Review the submitted vocational rehabilitation plan within fifteen days of receipt at the department, and determine whether to approve or deny the plan.

(viii) Notify all parties of plan approval or denial in writing. Should the department fail to send a notification letter within fifteen calendar days of the date the report is received by the department, the plan is considered approved.

When a plan is approved, the notification must advise the worker that he or she (~~has fifteen calendar days from the date of the notification letter to decline vocational services and elect option 2 benefits as defined in RCW 51.32.099~~) can elect Option 2 at any point within the following time period:

• Beginning with the date of plan approval or the department's determination that a disputed plan is valid; and

• Ending the fifteenth day after completion of the first academic quarter or three months' training.

However, the department may approve an election submitted in writing within twenty-five days of the (~~date the plan is approved or is determined valid following a dispute~~) completion of the first academic quarter or three months' training if the worker provides a written explanation of why

he or she was unable to submit the election of Option 2 benefits within fifteen days.

(b) **Self-insured claims.** For self-insured claims, the department must:

(i) Review the assessment report and determine whether the worker is eligible for vocational rehabilitation plan development services.

(ii) Notify all parties of the eligibility determination in writing.

When the worker is eligible for plan development services, the notification letter must advise the employer it has fifteen calendar days from the date of the letter to make a valid return to work offer; and

(iii) Review the submitted vocational rehabilitation plan within fifteen days of receipt at the department, and determine whether to approve or deny the plan.

(iv) Notify all parties of plan approval or denial in writing. Should the department fail to send a notification letter within fifteen calendar days of the date the report is received by the department, the plan is considered approved.

When a plan is approved, the notification letter must advise the worker that he or she (~~has fifteen calendar days from the date of the letter to elect option 2 benefits as defined in RCW 51.32.099~~) can elect Option 2 at any point within the following time period:

• Beginning with the date of plan approval or the department's determination that a disputed plan is valid; and

• Ending the fifteenth day after completion of the first academic quarter or three months' training.

However, the department may approve an election submitted in writing within twenty-five days of the (~~date the plan is approved or is determined valid following a dispute~~) completion of the first academic quarter or three months' training if the worker provides a written explanation of why he or she was unable to submit the election of Option 2 benefits within fifteen days.

(3) **Employer.** The employer must:

(a) Assist the vocational rehabilitation provider in any way necessary to collect data regarding the worker's gainful employment at the time of the injury.

(b) Assist the vocational rehabilitation provider and attending health care provider to determine whether a job could be made available for employment of the worker.

(4) **Worker.** The worker must fully participate and cooperate in all aspects of their vocational services including determination of physical capacities, development of vocational goals, and implementation of the rehabilitation process. Examples include but are not limited to:

• Providing accurate and complete information regarding his or her work history and educational background.

• Attending all scheduled appointments.

• Cooperating with return to work efforts when it is determined return to work opportunities exist.

• Actively participating and cooperating in selecting a job goal when it is determined retraining is necessary.

(5) **Vocational rehabilitation provider.** In assisting the worker to become employable at gainful employment, the vocational rehabilitation provider must:

(a) Follow the priorities in RCW 51.32.095 and the requirements in this chapter. The highest priority is returning a worker to employment.

(b) For state fund claims, immediately inform the department orally if the worker:

(i) Returns to work;

(ii) Is released for work without restrictions;

(iii) Returns to work and is unsuccessful; or

(iv) Fails to cooperate.

Note: Written notification and documentation must follow oral notification within two working days.

(c) Identify all vocational rehabilitation counselors and interns who provided services in each reporting period.

(d) Provide copies of reports and attachments submitted to the referral source to the employer (if different than the referral source) and the worker or the worker's representative when requested.

(e) Prior to a determination of eligibility, work with the employer, if necessary, to develop job analyses for work the employer is offering or has available and provide other assistance necessary to facilitate return to work with the employer.

(f) When providing plan development services, the vocational rehabilitation provider should, whenever possible and appropriate, focus on identifying goals and occupations that are considered high demand in the workforce. High demand occupations, as determined by the employment security department, means the number of job openings in the labor market for the occupation or with the required skill set exceeds the supply of qualified workers.

(g) Should the employer choose to make a valid return to work offer within fifteen calendar days of the date of the notification letter approving plan development services, the vocational rehabilitation provider may provide assistance necessary to facilitate return to work with the employer. The department may approve up to an additional ten days for an employer to modify a job offer if it does not meet all of the requirements. When this occurs, the vocational rehabilitation provider may assist the employer in making the necessary modifications.

AMENDATORY SECTION (Amending WSR 08-06-058, filed 2/29/08, effective 3/31/08)

WAC 296-19A-110 What are vocational rehabilitation plan implementation and monitoring services? Vocational rehabilitation plan implementation and monitoring services are those services a vocational rehabilitation provider provides to assist a worker to successfully complete a vocational rehabilitation plan. These services may include, but are not limited to, the following:

(1) Contacting the worker and, if necessary, the trainer or appropriate representative of the training program or school, at least every fourteen calendar days to:

(a) Confirm the worker has received all necessary equipment and supplies;

(b) Make sure the worker successfully enters and progresses in the vocational rehabilitation plan;

(c) Identify potential problems;

(d) Monitor the worker's progress; and

(e) Resolve any problems that might arise, or submit documentation regarding why it cannot be resolved;

~~(2)~~ If the worker's plan was approved on or after July 31, 2015, reminding the worker, within two weeks before the completion of the first academic quarter or three months' training, of the worker's deadline to elect Option 2.

~~(3)~~ Notifying the department or self-insured employer when the worker completes the plan;

~~((3))~~ (4) Assisting with job search assistance before the completion of the vocational rehabilitation plan and may include referral to community based organizations offering free resources for job search assistance such as resume writing and job seeking skills;

~~((4))~~ (5) Documenting the worker's acquisition of skills;

~~((5))~~ (6) Notifying the department if the plan needs to be terminated; and

~~((6))~~ (7) Obtaining preferred worker status for worker, if appropriate.

AMENDATORY SECTION (Amending WSR 11-23-070, filed 11/15/11, effective 12/16/11)

WAC 296-19A-600 How does an eligible injured worker elect vocational Option 2 benefits? ~~((Within))~~ (1) If the worker's plan was approved prior to July 31, 2015, the worker has up to fifteen days ~~((of))~~ from the approval of a retraining plan or the department's determination that a disputed plan is valid ~~((, the worker))~~ to submit ~~((s))~~ to the department or ~~((self-insurer))~~ self-insured employer the retraining plan option election form indicating they ~~((select))~~ elect Option 2 and choose not to participate in their retraining plan. ~~((However,))~~

(2) If the worker's plan was approved on or after July 31, 2015, the worker can elect Option 2 at any point within the following time period:

- Beginning with the date of plan approval or the department's determination that a disputed plan is valid; and

- Ending the fifteenth day after completion of the first academic quarter or three months' training.

(a) To elect Option 2, the worker submits to the department or self-insured employer the retraining plan option election form indicating they elect Option 2 and choose not to participate, or continue participating, in their retraining plan.

(b) Wherever the time for electing Option 2 is referenced in chapter 296-19A WAC, if the school or training program does not use an academic quarter system, the three-month time period applies; however, if the worker's vocational retraining plan is less than three months in duration, the worker's last day to elect Option 2 is the day before the plan ends. The worker cannot elect Option 2 after the plan is completed.

(3) The department may approve an Option 2 ~~((selection))~~ election submitted within twenty-five calendar days if the worker provides a written explanation establishing that he or she was unable to submit his or her election within the fifteen calendar days specified in subsections (1) and (2) of this section.

(4) If no completed and signed retraining plan option election form is received, the worker must participate in the approved Option 1 retraining plan.

~~((This))~~ (5) The worker's election of Option 2 means the worker's claim will be closed, and the worker will receive the vocational Option 2 award and access to the Option 2 training funds.

AMENDATORY SECTION (Amending WSR 10-07-054, filed 3/12/10, effective 4/12/10)

WAC 296-19A-610 What is a vocational Option 2 award? ~~((This))~~ (1) If the worker's plan was approved prior to July 31, 2015, the vocational Option 2 award is equivalent to six months of temporary total disability compensation.

(2) If the worker's plan was approved on or after July 31, 2015, the vocational Option 2 award is equivalent to nine months of temporary total disability compensation.

(3) The vocational Option 2 award is based on the worker's monthly compensation rate on the date the Option 2 benefit is granted. The award will be paid to the worker in biweekly payments until the award is paid in full.

(4) Whenever the biweekly payments are made over a period that includes July 1, the amount of the payment(s) will include any cost-of-living adjustment.

(5) The temporary total disability amount used will not include any adjustments for the worker's receipt of Social Security benefits.

(6) The department or ~~((self-insurer))~~ self-insured employer will deduct any overpayments owed from the vocational Option 2 award.

AMENDATORY SECTION (Amending WSR 10-07-054, filed 3/12/10, effective 4/12/10)

WAC 296-19A-620 What are the vocational Option 2 training funds? (1) These training funds are available to the worker, upon application to the department or ~~((self-insurer))~~ self-insured employer, for a period of five years following the date of the department's order confirming the worker's Option 2 election.

(2) The funds can be used to participate in any training through an accredited, licensed, or department-approved training program or institution.

~~((Training fund amounts are based on tuition rates in effect on the date the worker's plan is approved.))~~ (3) The worker can use the training funds for tuition, books, fees, supplies, equipment, and tools. In addition, if the worker's plan was approved on or after July 31, 2015, the worker can use up to ten percent of the training funds for vocational counseling and job placement services.

(4) Eligible workers are notified of the training fund amount ~~((available to them))~~ by department order issued at the time of their Option 2 election.

NEW SECTION

WAC 296-19A-625 What if an eligible worker elects Option 2 after starting the retraining plan? (1) If the worker's plan was approved on or after July 31, 2015, the

worker can elect Option 2 at any point within the following time period:

- Beginning with the date of plan approval or the department's determination that a disputed plan is valid; and
- Ending the fifteenth day after completion of the first academic quarter or three months' training.

(2) However, if the worker specified in subsection (1) of this section elects Option 2 after starting the Option 1 retraining plan the following will occur:

(a) The training funds will be reduced by the amount of tuition and related charges expended during the Option 1 retraining plan; and

(b) The nine-month vocational Option 2 award will be reduced by the amount the worker was paid for time-loss days starting with the first date of Option 1 retraining through the date the department received the worker's Option 2 election.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-19A-630 Can a worker change their option election?

WSR 15-19-140
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed September 22, 2015, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-100.

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance, and chapter 296-17B WAC, Retrospective rating for workers' compensation insurance.

Hearing Location(s): Stakeholder Meetings: Department of Labor and Industries, Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501, on October 26, 2015, at 10:00 a.m. and at the Vancouver Northwest Regional Training Center, 11606 N.E. 66th Street, Suite 103, Vancouver, WA 98662, on October 26, 2015, at 10:00 a.m.

Public Hearing Schedule: Tukwila Community Center, 12424 42nd Avenue South, Tukwila, WA 98168, on October 27, 2015, at 10:00 a.m.; at the Everett Community College, Jackson Center, Senate Room, 2000 Tower Street, Everett, WA 90201, on October 28, 2015, at 10:00 a.m.; at the Spokane CenterPlace, 2426 North Discovery Place, Spokane Valley, WA 99216, on October 29, 2015, at 9:00 a.m.; and at the Richland Community Center, Activity Room, 500 Amon Park Drive, Richland, WA 99352, on October 30, 2015, at 9:00 a.m.

Date of Intended Adoption: December 1, 2015.

Submit Written Comments to: Jo Anne Attwood, P.O. Box 41448, Olympia, WA 98504-4148, e-mail joanne.

attwood@lni.wa.gov, fax (360) 902-4988, by 5 p.m. on November 3, 2015.

Assistance for Persons with Disabilities: Contact office of information and assistance by October 15, 2015, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule proposal will amend the tables of classification base premium rates, experience rating plan parameters, experience modification factor calculation limitations, and retrospective rating plan size groupings for the workers' compensation insurance program for calendar year 2016. Classification base rates were amended for updated loss and payroll experience. The department proposes a two percent overall average premium rate increase.

For the purpose of partially funding the logger safety initiative, the supplemental pension fund will be increased by 1.9 mils (\$0.0019) to 49.5 mils (\$0.0495) per hour for each employer and worker for work reported in the forest products industry risk classifications: 1002, 1003, 1004, 1005, 2401, 2903, 2904, 2905, 2907, 2909, 5001, 5002, 5003, 5004, 5005, 5006, and 6902. Each of these risk classifications is defined in chapter 296-17A WAC.

Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance and chapter 296-17B WAC, Retrospective rating for workers' compensation insurance, amending WAC 296-17-855 Experience modification, 296-17-875 Table I, 296-17-880 Table II, 296-17-885 Table III, 296-17-890 Table IV, 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry, 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications, 296-17-89507 Horse racing rates, 296-17-920 Assessment for supplemental pension fund, 296-17B-540 Determining loss incurred for each claim, and 296-17B-900 Retrospective rating plans standard premium size ranges.

Reasons Supporting Proposal: The department's decision to increase overall rates is intended to ensure adequate premiums to cover expected losses for 2016 claims and to continue rebuilding the trust funds' contingency reserves to adequate levels. Washington law provides that rates should be adjusted annually to reflect the hazards of each industry and in accordance with recognized workers' compensation insurance principles.

Statutory Authority for Adoption: RCW 51.16.035 (base rates), 51.32.073 (supplemental pension), 51.18.010 (retrospective rating), and 51.04.020(1) (general authority); session law, section 217(6), chapter 4, Laws of 2013 2nd sp. sess.

Statute Being Implemented: RCW 51.16.035, 51.32.073, and 51.18.010; session law, section 217(6), chapter 4, Laws of 2013 2nd sp. sess.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, (360) 902-4777;

Implementation: Mike Ratko, Tumwater, Washington, (360) 902-6369; and Enforcement: Victoria Kennedy, Tumwater, Washington, (360) 902-4997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement is required as the proposed rules are adjusting rates pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are adjusting rates pursuant to legislative standards.

September 22, 2015
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-855 Experience modification. The basis of the experience modification shall be a comparison of the actual losses charged to an employer during the experience period with the expected losses for an average employer reporting the same exposures in each classification. The comparison shall contain actuarial refinements designed to weigh the extent to which the actual experience is credible, due consideration being given to the volume of the employer's experience. Except for those employers who qualify for an adjusted experience modification as specified in WAC 296-17-860 or 296-17-865, the experience modification factor shall be calculated from the formula:

$$\text{EXPERIENCE MODIFICATION FACTOR} = \frac{\text{Credible Actual Primary Loss} + \text{Credible Actual Excess Loss}}{\text{Expected Loss}}$$

Where

$$\text{Credible Actual Primary Loss} = \text{Actual Primary Loss} \times \text{Primary Credibility} + \text{Expected Primary Loss} \times (100\% - \text{Primary Credibility})$$

$$\text{Credible Actual Excess Loss} = \text{Actual Excess Loss} \times \text{Excess Credibility} + \text{Expected Excess Loss} \times (100\% - \text{Excess Credibility})$$

The meaning and function of each term in the formula is specified below.

For each claim, the actual primary loss is the first dollar portion of the claim costs, which has been shown in actuarial studies, to have the greater credibility in predicting future experience. These amounts are summed over all claims. For each claim in excess of \$20,112 the actual primary loss shall be determined from the formula:

$$\text{ACTUAL PRIMARY LOSS} = \frac{50,280}{(\text{Total loss} + 30,168)} \times \text{total loss}$$

For each claim, less than \$20,112 the full value of the claim shall be considered a primary loss.

For each claim, the excess actual loss is the remaining portion of the claim costs, which have been shown in actuarial studies to have less credibility in predicting future experience. The excess actual loss for each claim shall be deter-

mined by subtracting the primary loss from the total loss. These amounts are summed over all claims.

For any claim without disability benefits (time loss, partial permanent disability, total permanent disability or death) either actually paid or estimated to be paid, the total actual losses for calculating the primary loss and excess loss shall first be reduced by the lesser of \$((~~2,690~~) 2,760) or the total cost of the claim. Here are some examples for these claims:

Total Loss	Type of Claim	Total Loss (after deduction)	Primary Loss	Excess Loss
300	Medical Only	0	0	0
3,000	Medical Only	((310)) <u>240</u>	((310)) <u>240</u>	0
3,000	Time Loss	3,000	3,000	0
30,000	Medical Only	((27,310)) <u>27,240</u>	((23,890)) <u>23,858</u>	((3,420)) <u>3,382</u>
30,000	Time Loss	30,000	25,070	4,930
130,000	PPD	130,000	40,810	89,190
<u>500,000</u>	<u>TPD Pension</u>	<u>283,507</u>	<u>45,444</u>	<u>238,063</u>
2,000,000	TPD Pension	((271,478)) <u>283,507</u>	((45,251)) <u>45,444</u>	((226,227)) <u>238,063</u>

Note: The deduction, \$((~~2,690~~) 2,760), is twice the average case incurred cost of these types of claims occurring during the three-year period used for experience rating. On average this results in reducing the average actual loss about seventy percent for these types of claims adjusted. This is done to help make the transition between the two different experience rating methods better by helping make the change in experience factor reasonable for small changes to the actual losses. The \$2,000,000 loss is limited by the Maximum Claim Value before the reduction of \$((~~2,690~~) 2,760) is applied.

For each employer, the primary credibility and the excess credibility determines the percentage weight given to the corresponding actual primary losses and the actual excess losses, included in the calculation of the experience modification, based on the volume of expected losses. Primary credibility and excess credibility values are set forth in Table II.

An employer's expected losses shall be determined by summing the expected loss for each of the three years of the experience period, which are calculated by multiplying the reported exposure in each classification during the year by the corresponding classification expected loss rate and rounding the result to the nearest cent. Classification expected loss rates by year are set forth in Table III.

Expected losses in each classification shall be multiplied by the classification "Primary-Ratio" to obtain "expected primary losses" which shall be rounded to the nearest cent. Expected excess losses shall then be calculated by subtracting expected primary losses from expected total losses rounded to the nearest cent. Primary-Ratios are also set forth in Table III.

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-875 Table I.

**Primary Losses for Selected Claim Values
Effective January 1, (~~2015~~) 2016**

TOTAL LOSS AFTER DEDUCTION	PRIMARY LOSS
5,000	5,000
10,000	10,000
15,000	15,000
20,112	20,112
29,834	25,000
44,627	30,000
69,102	35,000
100,000	38,627
117,385	40,000
200,000	43,690
((271,478 **	45,251))
<u>283,507 **</u>	<u>45,444</u>

** Maximum claim value

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-880 Table II.

**PRIMARY AND EXCESS CREDIBILITY VALUES
Effective January 1, (~~2015~~) 2016**

Maximum Claim Value = \$((271,478)) 283,507

Average Death Value = \$((271,478)) 283,507

Expected Losses	Primary Credibility	Excess Credibility
((1 - 7,727	12%	7%
7,728 - 8,248	13%	7%
8,249 - 8,776	14%	7%
8,777 - 9,309	15%	7%
9,310 - 9,848	16%	7%
9,849 - 10,395	17%	7%
10,396 - 10,949	18%	7%
10,950 - 11,509	19%	7%
11,510 - 12,076	20%	7%
12,077 - 12,652	21%	7%
12,653 - 13,237	22%	7%
13,238 - 13,829	23%	7%
13,830 - 14,430	24%	7%
14,431 - 15,042	25%	7%
15,043 - 15,664	26%	7%

Expected Losses	Primary Credibility	Excess Credibility
15,665 - 16,292	27%	7%
16,293 - 16,935	28%	7%
16,936 - 17,586	29%	7%
17,587 - 18,251	30%	7%
18,252 - 18,931	31%	7%
18,932 - 19,619	32%	7%
19,620 - 20,325	33%	7%
20,326 - 21,044	34%	7%
21,045 - 21,780	35%	7%
21,781 - 22,534	36%	7%
22,535 - 23,305	37%	7%
23,306 - 24,099	38%	7%
24,100 - 24,910	39%	7%
24,911 - 25,749	40%	7%
25,750 - 26,610	41%	7%
26,611 - 27,502	42%	7%
27,503 - 28,423	43%	7%
28,424 - 29,379	44%	7%
29,380 - 30,374	45%	7%
30,375 - 31,413	46%	7%
31,414 - 32,500	47%	7%
32,501 - 33,649	48%	7%
33,650 - 34,867	49%	7%
34,868 - 36,166	50%	7%
36,167 - 37,568	51%	7%
37,569 - 39,104	52%	7%
39,105 - 40,816	53%	7%
40,817 - 40,990	54%	7%
40,991 - 42,789	54%	8%
42,790 - 45,199	55%	8%
45,200 - 68,405	56%	8%
68,406 - 75,396	57%	8%
75,397 - 107,692	57%	9%
107,693 - 110,920	57%	10%
110,921 - 140,187	58%	10%
140,188 - 153,435	58%	11%
153,436 - 172,886	59%	11%
172,887 - 195,952	59%	12%
195,953 - 205,780	60%	12%
205,781 - 238,468	60%	13%
238,469 - 238,885	61%	13%
238,886 - 272,195	61%	14%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility
272,196	- 280,982	61%	15%	1,088,778	- 1,100,047	81%	37%
280,983	- 305,713	62%	15%	1,100,048	- 1,131,294	81%	38%
305,714	- 323,498	62%	16%	1,131,295	- 1,138,951	82%	38%
323,499	- 339,440	63%	16%	1,138,952	- 1,173,810	82%	39%
339,441	- 366,015	63%	17%	1,173,811	- 1,178,119	83%	39%
366,016	- 373,380	64%	17%	1,178,120	- 1,216,326	83%	40%
373,381	- 407,534	64%	18%	1,216,327	- 1,217,552	84%	40%
407,535	- 408,528	64%	19%	1,217,553	- 1,257,251	84%	41%
408,529	- 441,907	65%	19%	1,257,252	- 1,258,838	84%	42%
441,908	- 451,045	65%	20%	1,258,839	- 1,297,222	85%	42%
451,046	- 476,495	66%	20%	1,297,223	- 1,301,356	85%	43%
476,496	- 493,561	66%	21%	1,301,357	- 1,337,470	86%	43%
493,562	- 511,304	67%	21%	1,337,471	- 1,343,873	86%	44%
511,305	- 536,077	67%	22%	1,343,874	- 1,377,992	87%	44%
536,078	- 546,337	68%	22%	1,377,993	- 1,386,388	87%	45%
546,338	- 578,590	68%	23%	1,386,389	- 1,418,795	88%	45%
578,591	- 581,593	69%	23%	1,418,796	- 1,428,904	88%	46%
581,594	- 617,077	69%	24%	1,428,905	- 1,459,879	89%	46%
617,078	- 621,105	69%	25%	1,459,880	- 1,471,418	89%	47%
621,106	- 652,789	70%	25%	1,471,419	- 1,501,251	90%	47%
652,790	- 663,623	70%	26%	1,501,252	- 1,513,935	90%	48%
663,624	- 688,733	71%	26%	1,513,936	- 1,542,909	91%	48%
688,734	- 706,139	71%	27%	1,542,910	- 1,556,449	91%	49%
706,140	- 724,912	72%	27%	1,556,450	- 1,584,859	92%	49%
724,913	- 748,653	72%	28%	1,584,860	- 1,598,967	92%	50%
748,654	- 761,324	73%	28%	1,598,968	- 1,627,105	93%	50%
761,325	- 791,170	73%	29%	1,627,106	- 1,641,481	93%	51%
791,171	- 797,974	74%	29%	1,641,482	- 1,669,648	94%	51%
797,975	- 833,685	74%	30%	1,669,649	- 1,683,996	94%	52%
833,686	- 834,868	75%	30%	1,683,997	- 1,712,492	95%	52%
834,869	- 872,002	75%	31%	1,712,493	- 1,726,511	95%	53%
872,003	- 876,201	75%	32%	1,726,512	- 1,755,639	96%	53%
876,202	- 909,383	76%	32%	1,755,640	- 1,769,027	96%	54%
909,384	- 918,716	76%	33%	1,769,028	- 1,799,094	97%	54%
918,717	- 947,009	77%	33%	1,799,095	- 1,811,542	97%	55%
947,010	- 961,233	77%	34%	1,811,543	- 1,842,858	98%	55%
961,234	- 984,889	78%	34%	1,842,859	- 1,854,059	98%	56%
984,890	- 1,003,748	78%	35%	1,854,060	- 1,886,938	99%	56%
1,003,749	- 1,023,019	79%	35%	1,886,939	- 1,896,573	99%	57%
1,023,020	- 1,046,263	79%	36%	1,896,574	- 1,931,335	100%	57%
1,046,264	- 1,061,404	80%	36%	1,931,336	- 1,976,053	100%	58%
1,061,405	- 1,088,777	80%	37%	1,976,054	- 2,021,094	100%	59%

Expected Losses	Primary Credibility	Excess Credibility	Expected Losses	Primary Credibility	Excess Credibility
2,021,095 - 2,066,464	100%	60%	14,960 = 15,559	27%	7%
2,066,465 - 2,112,164	100%	61%	15,560 = 16,173	28%	7%
2,112,165 - 2,158,200	100%	62%	16,174 = 16,795	29%	7%
2,158,201 - 2,204,575	100%	63%	16,796 = 17,430	30%	7%
2,204,576 - 2,251,291	100%	64%	17,431 = 18,079	31%	7%
2,251,292 - 2,298,354	100%	65%	18,080 = 18,736	32%	7%
2,298,355 - 2,345,768	100%	66%	18,737 = 19,410	33%	7%
2,345,769 - 2,393,535	100%	67%	19,411 = 20,097	34%	7%
2,393,536 - 2,441,661	100%	68%	20,098 = 20,800	35%	7%
2,441,662 - 2,490,149	100%	69%	20,801 = 21,520	36%	7%
2,490,150 - 2,539,002	100%	70%	21,521 = 22,256	37%	7%
2,539,003 - 2,588,227	100%	71%	22,257 = 23,015	38%	7%
2,588,228 - 2,637,827	100%	72%	23,016 = 23,789	39%	7%
2,637,828 - 2,687,804	100%	73%	23,790 = 24,590	40%	7%
2,687,805 - 2,738,165	100%	74%	24,591 = 25,413	41%	7%
2,738,166 - 2,788,911	100%	75%	25,414 = 26,264	42%	7%
2,788,912 - 2,840,053	100%	76%	26,265 = 27,144	43%	7%
2,840,054 - 2,891,589	100%	77%	27,145 = 28,057	44%	7%
2,891,590 - 2,943,528	100%	78%	28,058 = 29,007	45%	7%
2,943,529 - 2,995,872	100%	79%	29,008 = 29,999	46%	7%
2,995,873 - 3,048,628	100%	80%	30,000 = 31,037	47%	7%
3,048,629 - 3,101,801	100%	81%	31,038 = 32,135	48%	7%
3,101,802 - 3,155,392	100%	82%	32,136 = 33,298	49%	7%
3,155,393 - 3,209,409	100%	83%	33,299 = 34,538	50%	7%
3,209,410 - 3,263,856	100%	84%	34,539 = 35,877	51%	7%
3,263,857 - 3,318,741	100%	85%	35,878 = 37,344	52%	7%
3,318,742 and higher	100%	86%))	37,345 = 38,979	53%	7%
1 = 7,379	12%	7%	38,980 = 39,145	54%	7%
7,380 = 7,877	13%	7%	39,146 = 40,863	54%	8%
7,878 = 8,381	14%	7%	40,864 = 43,165	55%	8%
8,382 = 8,890	15%	7%	43,166 = 65,327	56%	8%
8,891 = 9,405	16%	7%	65,328 = 72,003	57%	8%
9,406 = 9,927	17%	7%	72,004 = 102,846	57%	9%
9,928 = 10,456	18%	7%	102,847 = 105,929	57%	10%
10,457 = 10,991	19%	7%	105,930 = 133,879	58%	10%
10,992 = 11,533	20%	7%	133,880 = 146,530	58%	11%
11,534 = 12,083	21%	7%	146,531 = 165,106	59%	11%
12,084 = 12,641	22%	7%	165,107 = 187,134	59%	12%
12,642 = 13,207	23%	7%	187,135 = 196,520	60%	12%
13,208 = 13,781	24%	7%	196,521 = 227,737	60%	13%
13,782 = 14,365	25%	7%	227,738 = 228,135	61%	13%
14,366 = 14,959	26%	7%	228,136 = 259,946	61%	14%

Expected Losses		Primary Credibility	Excess Credibility	Expected Losses		Primary Credibility	Excess Credibility		
<u>259,947</u>	=	<u>268,338</u>	<u>61%</u>	<u>15%</u>	<u>1,039,783</u>	=	<u>1,050,545</u>	<u>81%</u>	<u>37%</u>
<u>268,339</u>	=	<u>291,956</u>	<u>62%</u>	<u>15%</u>	<u>1,050,546</u>	=	<u>1,080,386</u>	<u>81%</u>	<u>38%</u>
<u>291,957</u>	=	<u>308,941</u>	<u>62%</u>	<u>16%</u>	<u>1,080,387</u>	=	<u>1,087,698</u>	<u>82%</u>	<u>38%</u>
<u>308,942</u>	=	<u>324,165</u>	<u>63%</u>	<u>16%</u>	<u>1,087,699</u>	=	<u>1,120,989</u>	<u>82%</u>	<u>39%</u>
<u>324,166</u>	=	<u>349,544</u>	<u>63%</u>	<u>17%</u>	<u>1,120,990</u>	=	<u>1,125,104</u>	<u>83%</u>	<u>39%</u>
<u>349,545</u>	=	<u>356,578</u>	<u>64%</u>	<u>17%</u>	<u>1,125,105</u>	=	<u>1,161,591</u>	<u>83%</u>	<u>40%</u>
<u>356,579</u>	=	<u>389,195</u>	<u>64%</u>	<u>18%</u>	<u>1,161,592</u>	=	<u>1,162,762</u>	<u>84%</u>	<u>40%</u>
<u>389,196</u>	=	<u>390,144</u>	<u>64%</u>	<u>19%</u>	<u>1,162,763</u>	=	<u>1,200,675</u>	<u>84%</u>	<u>41%</u>
<u>390,145</u>	=	<u>422,021</u>	<u>65%</u>	<u>19%</u>	<u>1,200,676</u>	=	<u>1,202,190</u>	<u>84%</u>	<u>42%</u>
<u>422,022</u>	=	<u>430,748</u>	<u>65%</u>	<u>20%</u>	<u>1,202,191</u>	=	<u>1,238,847</u>	<u>85%</u>	<u>42%</u>
<u>430,749</u>	=	<u>455,053</u>	<u>66%</u>	<u>20%</u>	<u>1,238,848</u>	=	<u>1,242,795</u>	<u>85%</u>	<u>43%</u>
<u>455,054</u>	=	<u>471,351</u>	<u>66%</u>	<u>21%</u>	<u>1,242,796</u>	=	<u>1,277,284</u>	<u>86%</u>	<u>43%</u>
<u>471,352</u>	=	<u>488,295</u>	<u>67%</u>	<u>21%</u>	<u>1,277,285</u>	=	<u>1,283,399</u>	<u>86%</u>	<u>44%</u>
<u>488,296</u>	=	<u>511,953</u>	<u>67%</u>	<u>22%</u>	<u>1,283,400</u>	=	<u>1,315,982</u>	<u>87%</u>	<u>44%</u>
<u>511,954</u>	=	<u>521,752</u>	<u>68%</u>	<u>22%</u>	<u>1,315,983</u>	=	<u>1,324,000</u>	<u>87%</u>	<u>45%</u>
<u>521,753</u>	=	<u>552,553</u>	<u>68%</u>	<u>23%</u>	<u>1,324,001</u>	=	<u>1,354,949</u>	<u>88%</u>	<u>45%</u>
<u>552,554</u>	=	<u>555,421</u>	<u>69%</u>	<u>23%</u>	<u>1,354,950</u>	=	<u>1,364,603</u>	<u>88%</u>	<u>46%</u>
<u>555,422</u>	=	<u>589,308</u>	<u>69%</u>	<u>24%</u>	<u>1,364,604</u>	=	<u>1,394,184</u>	<u>89%</u>	<u>46%</u>
<u>589,309</u>	=	<u>593,155</u>	<u>69%</u>	<u>25%</u>	<u>1,394,185</u>	=	<u>1,405,204</u>	<u>89%</u>	<u>47%</u>
<u>593,156</u>	=	<u>623,413</u>	<u>70%</u>	<u>25%</u>	<u>1,405,205</u>	=	<u>1,433,695</u>	<u>90%</u>	<u>47%</u>
<u>623,414</u>	=	<u>633,760</u>	<u>70%</u>	<u>26%</u>	<u>1,433,696</u>	=	<u>1,445,808</u>	<u>90%</u>	<u>48%</u>
<u>633,761</u>	=	<u>657,740</u>	<u>71%</u>	<u>26%</u>	<u>1,445,809</u>	=	<u>1,473,478</u>	<u>91%</u>	<u>48%</u>
<u>657,741</u>	=	<u>674,363</u>	<u>71%</u>	<u>27%</u>	<u>1,473,479</u>	=	<u>1,486,409</u>	<u>91%</u>	<u>49%</u>
<u>674,364</u>	=	<u>692,291</u>	<u>72%</u>	<u>27%</u>	<u>1,486,410</u>	=	<u>1,513,540</u>	<u>92%</u>	<u>49%</u>
<u>692,292</u>	=	<u>714,964</u>	<u>72%</u>	<u>28%</u>	<u>1,513,541</u>	=	<u>1,527,013</u>	<u>92%</u>	<u>50%</u>
<u>714,965</u>	=	<u>727,064</u>	<u>73%</u>	<u>28%</u>	<u>1,527,014</u>	=	<u>1,553,885</u>	<u>93%</u>	<u>50%</u>
<u>727,065</u>	=	<u>755,567</u>	<u>73%</u>	<u>29%</u>	<u>1,553,886</u>	=	<u>1,567,614</u>	<u>93%</u>	<u>51%</u>
<u>755,568</u>	=	<u>762,065</u>	<u>74%</u>	<u>29%</u>	<u>1,567,615</u>	=	<u>1,594,514</u>	<u>94%</u>	<u>51%</u>
<u>762,066</u>	=	<u>796,169</u>	<u>74%</u>	<u>30%</u>	<u>1,594,515</u>	=	<u>1,608,216</u>	<u>94%</u>	<u>52%</u>
<u>796,170</u>	=	<u>797,299</u>	<u>75%</u>	<u>30%</u>	<u>1,608,217</u>	=	<u>1,635,430</u>	<u>95%</u>	<u>52%</u>
<u>797,300</u>	=	<u>832,762</u>	<u>75%</u>	<u>31%</u>	<u>1,635,431</u>	=	<u>1,648,818</u>	<u>95%</u>	<u>53%</u>
<u>832,763</u>	=	<u>836,772</u>	<u>75%</u>	<u>32%</u>	<u>1,648,819</u>	=	<u>1,676,635</u>	<u>96%</u>	<u>53%</u>
<u>836,773</u>	=	<u>868,461</u>	<u>76%</u>	<u>32%</u>	<u>1,676,636</u>	=	<u>1,689,421</u>	<u>96%</u>	<u>54%</u>
<u>868,462</u>	=	<u>877,374</u>	<u>76%</u>	<u>33%</u>	<u>1,689,422</u>	=	<u>1,718,135</u>	<u>97%</u>	<u>54%</u>
<u>877,375</u>	=	<u>904,394</u>	<u>77%</u>	<u>33%</u>	<u>1,718,136</u>	=	<u>1,730,023</u>	<u>97%</u>	<u>55%</u>
<u>904,395</u>	=	<u>917,977</u>	<u>77%</u>	<u>34%</u>	<u>1,730,024</u>	=	<u>1,759,929</u>	<u>98%</u>	<u>55%</u>
<u>917,978</u>	=	<u>940,569</u>	<u>78%</u>	<u>34%</u>	<u>1,759,930</u>	=	<u>1,770,626</u>	<u>98%</u>	<u>56%</u>
<u>940,570</u>	=	<u>958,579</u>	<u>78%</u>	<u>35%</u>	<u>1,770,627</u>	=	<u>1,802,026</u>	<u>99%</u>	<u>56%</u>
<u>958,580</u>	=	<u>976,983</u>	<u>79%</u>	<u>35%</u>	<u>1,802,027</u>	=	<u>1,811,227</u>	<u>99%</u>	<u>57%</u>
<u>976,984</u>	=	<u>999,181</u>	<u>79%</u>	<u>36%</u>	<u>1,811,228</u>	=	<u>1,844,425</u>	<u>100%</u>	<u>57%</u>
<u>999,182</u>	=	<u>1,013,641</u>	<u>80%</u>	<u>36%</u>	<u>1,844,426</u>	=	<u>1,887,131</u>	<u>100%</u>	<u>58%</u>
<u>1,013,642</u>	=	<u>1,039,782</u>	<u>80%</u>	<u>37%</u>	<u>1,887,132</u>	=	<u>1,930,145</u>	<u>100%</u>	<u>59%</u>

Expected Losses	Primary Credibility	Excess Credibility	Class	((2011)) 2012	((2012)) 2013	((2013)) 2014	Primary Ratio
<u>1,930,146</u> = <u>1,973,473</u>	100%	60%	0108	1.0741	0.9214	0.7843	0.442
<u>1,973,474</u> = <u>2,017,117</u>	100%	61%	0112	0.8235	0.7072	0.6015	0.453
<u>2,017,118</u> = <u>2,061,081</u>	100%	62%	0201	1.8328	1.5687	1.3404	0.383
<u>2,061,082</u> = <u>2,105,369</u>	100%	63%	0202	3.2810	2.8197	2.4070	0.413
<u>2,105,370</u> = <u>2,149,983</u>	100%	64%	0210	1.0471	0.8987	0.7671	0.414
<u>2,149,984</u> = <u>2,194,928</u>	100%	65%	0212	1.3417	1.1517	0.9818	0.435
<u>2,194,929</u> = <u>2,240,208</u>	100%	66%	0214	1.4405	1.2326	1.0466	0.445
<u>2,240,209</u> = <u>2,285,826</u>	100%	67%	0217	1.4908	1.2811	1.0931	0.433
<u>2,285,827</u> = <u>2,331,786</u>	100%	68%	0219	1.0575	0.9053	0.7690	0.439
<u>2,331,787</u> = <u>2,378,092</u>	100%	69%	0301	0.8950	0.7735	0.6598	0.503
<u>2,378,093</u> = <u>2,424,747</u>	100%	70%	0302	2.3557	2.0149	1.7184	0.403
<u>2,424,748</u> = <u>2,471,757</u>	100%	71%	0303	1.8164	1.5615	1.3369	0.418
<u>2,471,758</u> = <u>2,519,125</u>	100%	72%	0306	1.0513	0.8969	0.7590	0.453
<u>2,519,126</u> = <u>2,566,853</u>	100%	73%	0307	0.9603	0.8228	0.6989	0.452
<u>2,566,854</u> = <u>2,614,948</u>	100%	74%	0308	0.6468	0.5603	0.4773	0.535
<u>2,614,949</u> = <u>2,663,410</u>	100%	75%	0403	1.8397	1.5745	1.3304	0.476
<u>2,663,411</u> = <u>2,712,251</u>	100%	76%	0502	1.4246	1.2202	1.0385	0.425
<u>2,712,252</u> = <u>2,761,467</u>	100%	77%	0504	1.8659	1.6214	1.3986	0.421
<u>2,761,468</u> = <u>2,811,069</u>	100%	78%	0507	3.4835	3.0300	2.6149	0.426
<u>2,811,070</u> = <u>2,861,058</u>	100%	79%	0508	1.7448	1.4898	1.2700	0.393
<u>2,861,059</u> = <u>2,911,440</u>	100%	80%	0509	1.3139	1.1282	0.9670	0.401
<u>2,911,441</u> = <u>2,962,220</u>	100%	81%	0510	2.2501	1.9430	1.6644	0.439
<u>2,962,221</u> = <u>3,013,399</u>	100%	82%	0511	1.6365	1.3992	1.1859	0.460
<u>3,013,400</u> = <u>3,064,986</u>	100%	83%	0512	1.3027	1.1197	0.9542	0.463
<u>3,064,987</u> = <u>3,116,982</u>	100%	84%	0513	0.9446	0.8112	0.6922	0.434
<u>3,116,983</u> = <u>3,169,398</u>	100%	85%	0514	1.8108	1.5485	1.3086	0.488
<u>3,169,399</u> and higher		86%	0516	1.5724	1.3522	1.1564	0.423
			0517	2.3954	2.0786	1.7940	0.407
			0518	1.3719	1.1753	1.0039	0.410
			0519	1.7400	1.4923	1.2672	0.462
			0521	0.5486	0.4739	0.4062	0.450
			0601	0.5923	0.5062	0.4281	0.478
			0602	0.7197	0.6126	0.5181	0.442
			0603	0.8052	0.6896	0.5877	0.427
			0604	1.2120	1.0495	0.8979	0.492
			0606	0.6328	0.5417	0.4552	0.543
			0607	0.7928	0.6816	0.5782	0.495
			0608	0.3381	0.2915	0.2489	0.466
			0701	1.7350	1.4804	1.2702	0.348
			0803	0.5748	0.4909	0.4120	0.544
			0901	1.3719	1.1753	1.0039	0.410
			1002	0.9317	0.8019	0.6835	0.468

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-885 Table III.

Expected Loss Rates and Primary Ratios
by Risk Classification and Fiscal Year
Expected Loss Rates in Dollars Per Worker Hour
Effective January 1, ((2015)) 2016

Class	((2011)) 2012	((2012)) 2013	((2013)) 2014	Primary Ratio
((0101))	1.3931	1.1978	1.0287	0.388
0103	1.6879	1.4600	1.2570	0.409
0104	1.0741	0.9214	0.7843	0.442
0105	1.4975	1.2814	1.0764	0.525
0106	1.7637	1.5157	1.2889	0.460
0107	1.0190	0.8749	0.7465	0.443

Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio	Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio
1003	0.7974	0.6874	0.5856	0.477	2204	0.2797	0.2422	0.2064	0.538
1004	0.5387	0.4603	0.3879	0.483	2401	0.4664	0.3984	0.3355	0.496
1005	8.7229	7.4569	6.3003	0.436	2903	0.7346	0.6365	0.5436	0.510
1006	0.1081	0.0923	0.0772	0.559	2904	0.7638	0.6567	0.5572	0.500
1007	0.3334	0.2843	0.2402	0.464	2905	0.6561	0.5670	0.4824	0.525
1101	0.8580	0.7324	0.6149	0.525	2906	0.3934	0.3417	0.2930	0.510
1102	1.5113	1.2942	1.0966	0.459	2907	0.5426	0.4671	0.3955	0.537
1103	1.2966	1.1112	0.9420	0.472	2908	1.2100	1.0498	0.9000	0.480
1104	0.6932	0.5959	0.5029	0.538	2909	0.4369	0.3769	0.3196	0.537
1105	0.9133	0.7837	0.6657	0.471	3101	0.8078	0.6940	0.5884	0.504
1106	0.3223	0.2814	0.2427	0.491	3102	0.2706	0.2331	0.1984	0.511
1108	0.6016	0.5194	0.4431	0.501	3103	0.5361	0.4631	0.3951	0.470
1109	1.5223	1.3100	1.1104	0.496	3104	0.6911	0.5945	0.5058	0.486
1301	0.5860	0.4947	0.4090	0.554	3105	0.8113	0.6987	0.5926	0.526
1303	0.2529	0.2151	0.1789	0.569	3303	0.4695	0.4029	0.3397	0.533
1304	0.0304	0.0260	0.0219	0.524	3304	0.5848	0.5074	0.4329	0.550
1305	0.5061	0.4352	0.3694	0.511	3309	0.4393	0.3796	0.3247	0.483
1401	0.2488	0.2186	0.1897	0.448	3402	0.4968	0.4281	0.3644	0.491
1404	0.9300	0.7995	0.6754	0.544	3403	0.2108	0.1821	0.1559	0.486
1405	0.8640	0.7337	0.6082	0.583	3404	0.4867	0.4188	0.3544	0.535
1407	0.6000	0.5175	0.4386	0.532	3405	0.3063	0.2629	0.2218	0.539
1501	0.7037	0.5992	0.5014	0.543	3406	0.3024	0.2598	0.2186	0.589
1507	0.6499	0.5580	0.4717	0.511	3407	0.7693	0.6583	0.5562	0.485
1701	0.7909	0.6785	0.5747	0.467	3408	0.2560	0.2173	0.1796	0.609
1702	1.6510	1.4170	1.2187	0.359	3409	0.1727	0.1481	0.1243	0.600
1703	0.9628	0.8182	0.6942	0.399	3410	0.2194	0.1898	0.1612	0.559
1704	0.7909	0.6785	0.5747	0.467	3411	0.5285	0.4530	0.3834	0.493
1801	0.4733	0.4118	0.3566	0.422	3412	0.6371	0.5467	0.4647	0.458
1802	0.7735	0.6620	0.5574	0.499	3414	0.7526	0.6493	0.5533	0.481
2002	0.9031	0.7796	0.6652	0.485	3415	0.8391	0.7289	0.6300	0.410
2004	0.7312	0.6300	0.5347	0.510	3501	1.1103	0.9554	0.8100	0.489
2007	0.7031	0.6095	0.5213	0.503	3503	0.3495	0.3044	0.2604	0.548
2008	0.3954	0.3419	0.2921	0.494	3506	0.9420	0.7999	0.6694	0.517
2009	0.3730	0.3216	0.2725	0.553	3509	0.4277	0.3682	0.3110	0.574
2101	0.7603	0.6607	0.5660	0.507	3510	0.3797	0.3269	0.2764	0.544
2102	0.7215	0.6186	0.5208	0.536	3511	0.6745	0.5825	0.4964	0.481
2104	0.3452	0.3014	0.2577	0.586	3512	0.4021	0.3467	0.2934	0.561
2105	0.7121	0.6086	0.5101	0.548	3513	0.6352	0.5530	0.4746	0.501
2106	0.5113	0.4435	0.3795	0.506	3602	0.1108	0.0955	0.0810	0.535
2201	0.2797	0.2422	0.2064	0.538	3603	0.5449	0.4712	0.4007	0.531
2202	0.8117	0.6950	0.5853	0.527	3604	0.7785	0.6830	0.5942	0.463
2203	0.5229	0.4509	0.3814	0.551	3605	0.5720	0.4890	0.4112	0.519

Class	(2011) <u>2012</u>	(2012) <u>2013</u>	(2013) <u>2014</u>	Primary Ratio	Class	(2011) <u>2012</u>	(2012) <u>2013</u>	(2013) <u>2014</u>	Primary Ratio
3701	0.2706	0.2331	0.1984	0.511	4815	0.3016	0.2669	0.2318	0.584
3702	0.5053	0.4325	0.3628	0.557	4816	0.4260	0.3771	0.3288	0.523
3708	0.6935	0.5944	0.5016	0.529	4900	0.1785	0.1535	0.1317	0.410
3802	0.2427	0.2092	0.1772	0.548	4901	0.0510	0.0438	0.0371	0.491
3808	0.4378	0.3755	0.3187	0.470	4902	0.1344	0.1150	0.0968	0.549
3901	0.1667	0.1449	0.1237	0.576	4903	0.1829	0.1559	0.1301	0.593
3902	0.4735	0.4086	0.3458	0.571	4904	0.0236	0.0203	0.0172	0.570
3903	1.2155	1.0602	0.9120	0.508	4905	0.4458	0.3882	0.3315	0.580
3905	0.1546	0.1344	0.1145	0.584	4906	0.1170	0.0997	0.0833	0.561
3906	0.5131	0.4451	0.3800	0.533	4907	0.0632	0.0548	0.0466	0.553
3909	0.3497	0.3029	0.2581	0.546	4908	0.1079	0.0934	0.0787	0.567
4002	0.4735	0.4086	0.3458	0.571	4909	0.0424	0.0372	0.0317	0.506
4101	0.3521	0.3024	0.2559	0.515	4910	0.4657	0.4016	0.3414	0.515
4103	0.6008	0.5151	0.4333	0.556	4911	0.0735	0.0632	0.0537	0.497
4107	0.1883	0.1622	0.1376	0.533	5001	8.2784	7.1497	6.1578	0.375
4108	0.1986	0.1712	0.1452	0.549	5002	0.6546	0.5585	0.4678	0.539
4109	0.2129	0.1841	0.1570	0.510	5003	2.1378	1.8171	1.5287	0.454
4201	0.6875	0.5844	0.4913	0.494	5004	0.8447	0.7347	0.6323	0.456
4301	0.7505	0.6483	0.5501	0.544	5005	0.8281	0.7155	0.6119	0.433
4302	0.8446	0.7239	0.6087	0.554	5006	1.4426	1.2430	1.0676	0.380
4304	1.0198	0.8905	0.7664	0.496	5101	1.0385	0.8879	0.7495	0.477
4305	1.2357	1.0480	0.8742	0.519	5103	0.8725	0.7541	0.6402	0.550
4401	0.4538	0.3955	0.3402	0.486	5106	0.8725	0.7541	0.6402	0.550
4402	0.8322	0.7141	0.6022	0.550	5108	0.8763	0.7562	0.6428	0.531
4404	0.5444	0.4720	0.4038	0.495	5109	0.6346	0.5397	0.4518	0.510
4501	0.2060	0.1771	0.1493	0.583	5201	0.3898	0.3338	0.2814	0.525
4502	0.0526	0.0452	0.0383	0.546	5204	1.0906	0.9380	0.7997	0.458
4504	0.1250	0.1079	0.0913	0.583	5206	0.4176	0.3599	0.3071	0.470
4601	0.8373	0.7204	0.6101	0.503	5207	0.1693	0.1470	0.1253	0.557
4801	3.2810	2.8197	2.4070	0.413	5208	0.7792	0.6714	0.5696	0.512
4802	0.3501	0.3041	0.2598	0.533	5209	0.7258	0.6262	0.5351	0.470
4803	0.3574	0.3111	0.2653	0.593	5300	0.1320	0.1125	0.0940	0.579
4804	0.5628	0.4871	0.4142	0.568	5301	0.0359	0.0309	0.0262	0.547
4805	0.3937	0.3403	0.2890	0.557	5302	0.0139	0.0119	0.0101	0.512
4806	0.0805	0.0701	0.0600	0.567	5305	0.0582	0.0501	0.0423	0.591
4808	0.4967	0.4305	0.3677	0.502	5306	0.0497	0.0428	0.0363	0.571
4809	0.3568	0.3101	0.2648	0.544	5307	0.7869	0.6722	0.5659	0.507
4810	0.1789	0.1558	0.1330	0.583	5308	0.1041	0.0893	0.0751	0.578
4811	0.3992	0.3463	0.2945	0.574	6103	0.1001	0.0866	0.0731	0.613
4812	0.4167	0.3604	0.3066	0.547	6104	0.4995	0.4292	0.3624	0.545
4813	0.1967	0.1711	0.1463	0.551	6105	0.4181	0.3583	0.3031	0.509
4814	0.1485	0.1309	0.1134	0.571	6107	0.1499	0.1307	0.1118	0.579

Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio	Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio
6108	0.4537	0.3926	0.3336	0.567	6603	0.3275	0.2825	0.2402	0.521
6109	0.1136	0.0971	0.0814	0.551	6604	0.0930	0.0802	0.0678	0.570
6110	0.6411	0.5515	0.4660	0.541	6605	0.3622	0.3094	0.2583	0.569
6120	0.3285	0.2795	0.2331	0.550	6607	0.1627	0.1410	0.1203	0.517
6121	0.3723	0.3204	0.2725	0.499	6608	0.6048	0.5152	0.4376	0.415
6201	0.3307	0.2853	0.2436	0.483	6620	3.5043	2.9596	2.4449	0.578
6202	0.7510	0.6462	0.5470	0.515	6704	0.1355	0.1170	0.0993	0.545
6203	0.1208	0.1050	0.0893	0.632	6705	0.9525	0.8265	0.7026	0.600
6204	0.1531	0.1325	0.1125	0.574	6706	0.3270	0.2866	0.2483	0.502
6205	0.2458	0.2133	0.1821	0.536	6707	6.5041	5.5538	4.6106	0.673
6206	0.2456	0.2123	0.1804	0.550	6708	9.5264	8.5271	7.5376	0.445
6207	1.4669	1.2794	1.0985	0.513	6709	0.2959	0.2564	0.2180	0.544
6208	0.2808	0.2442	0.2082	0.570	6801	0.8035	0.6772	0.5592	0.560
6209	0.3123	0.2720	0.2332	0.519	6802	0.6880	0.5905	0.4969	0.588
6301	0.1376	0.1174	0.0990	0.491	6803	0.7045	0.6070	0.5250	0.341
6303	0.0771	0.0664	0.0564	0.525	6804	0.3344	0.2895	0.2467	0.532
6304	0.3393	0.2946	0.2511	0.563	6809	5.9379	5.1302	4.3260	0.584
6305	0.1149	0.0992	0.0840	0.593	6901	0.0227	0.0213	0.0189	0.740
6306	0.3583	0.3086	0.2621	0.512	6902	0.9811	0.8419	0.7186	0.423
6308	0.0693	0.0593	0.0501	0.530	6903	6.9913	6.1113	5.3667	0.321
6309	0.2174	0.1881	0.1601	0.531	6904	0.8022	0.6765	0.5584	0.543
6402	0.2974	0.2566	0.2171	0.577	6905	0.5755	0.4857	0.4008	0.583
6403	0.1929	0.1668	0.1414	0.574	6906	0.2292	0.2132	0.1948	0.670
6404	0.3087	0.2671	0.2268	0.574	6907	1.2548	1.0808	0.9155	0.534
6405	0.5666	0.4853	0.4096	0.519	6908	0.4317	0.3723	0.3165	0.515
6406	0.1342	0.1159	0.0981	0.591	6909	0.1291	0.1112	0.0940	0.550
6407	0.2677	0.2310	0.1960	0.561	7100	0.0354	0.0309	0.0268	0.467
6408	0.5131	0.4428	0.3769	0.509	7101	0.0261	0.0226	0.0194	0.452
6409	0.7143	0.6142	0.5215	0.491	7102	4.7128	4.1763	3.6384	0.552
6410	0.3318	0.2851	0.2411	0.531	7103	0.8289	0.7038	0.5861	0.540
6501	0.1546	0.1325	0.1113	0.574	7104	0.0351	0.0300	0.0253	0.578
6502	0.0361	0.0313	0.0266	0.535	7105	0.0243	0.0210	0.0178	0.531
6503	0.0774	0.0661	0.0557	0.520	7106	0.3076	0.2641	0.2218	0.609
6504	0.3833	0.3332	0.2841	0.581	7107	0.2817	0.2456	0.2103	0.563
6505	0.1544	0.1337	0.1129	0.627	7108	0.2064	0.1796	0.1534	0.554
6506	0.1354	0.1165	0.0982	0.584	7109	0.1570	0.1353	0.1142	0.579
6509	0.3629	0.3148	0.2679	0.573	7110	0.3487	0.3000	0.2557	0.459
6510	0.4507	0.3881	0.3310	0.442	7111	0.4742	0.4055	0.3438	0.449
6511	0.4110	0.3554	0.3017	0.555	7112	0.8188	0.7066	0.5991	0.563
6512	0.1302	0.1125	0.0959	0.490	7113	0.4457	0.3861	0.3288	0.550
6601	0.2363	0.2038	0.1725	0.534	7114	0.7769	0.6714	0.5675	0.598
6602	0.6226	0.5404	0.4614	0.539	7115	0.5260	0.4584	0.3935	0.544

Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio	Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio
7116	0.6772	0.5864	0.4999	0.509	<u>0504</u>	<u>1.8701</u>	<u>1.6531</u>	<u>1.3902</u>	<u>0.415</u>
7117	1.2285	1.0590	0.8977	0.537	<u>0507</u>	<u>3.2914</u>	<u>2.9137</u>	<u>2.4518</u>	<u>0.425</u>
7118	1.6472	1.4278	1.2207	0.501	<u>0508</u>	<u>1.5506</u>	<u>1.3516</u>	<u>1.1165</u>	<u>0.397</u>
7119	1.6505	1.4088	1.1769	0.562	<u>0509</u>	<u>1.0804</u>	<u>0.9442</u>	<u>0.7817</u>	<u>0.413</u>
7120	6.6143	5.7082	4.8604	0.500	<u>0510</u>	<u>2.2461</u>	<u>1.9784</u>	<u>1.6506</u>	<u>0.439</u>
7121	6.1894	5.3424	4.5488	0.501	<u>0511</u>	<u>1.5935</u>	<u>1.3924</u>	<u>1.1443</u>	<u>0.467</u>
7122	0.4433	0.3837	0.3265	0.540	<u>0512</u>	<u>1.2157</u>	<u>1.0682</u>	<u>0.8866</u>	<u>0.457</u>
7200	1.7750	1.5073	1.2575	0.521	<u>0513</u>	<u>0.9009</u>	<u>0.7886</u>	<u>0.6509</u>	<u>0.451</u>
7201	1.9832	1.6867	1.4096	0.521	<u>0514</u>	<u>1.6433</u>	<u>1.4369</u>	<u>1.1773</u>	<u>0.496</u>
7202	0.0309	0.0267	0.0228	0.490	<u>0516</u>	<u>1.4403</u>	<u>1.2630</u>	<u>1.0476</u>	<u>0.433</u>
7203	0.1385	0.1220	0.1052	0.587	<u>0517</u>	<u>2.1880</u>	<u>1.9315</u>	<u>1.6249</u>	<u>0.397</u>
7204	0.0000	0.0000	0.0000	0.500	<u>0518</u>	<u>1.2791</u>	<u>1.1180</u>	<u>0.9262</u>	<u>0.407</u>
7205	0.0000	0.0000	0.0000	0.500	<u>0519</u>	<u>1.6137</u>	<u>1.4114</u>	<u>1.1600</u>	<u>0.479</u>
7301	0.4867	0.4216	0.3601	0.518	<u>0521</u>	<u>0.5222</u>	<u>0.4593</u>	<u>0.3811</u>	<u>0.472</u>
7302	1.0006	0.8704	0.7473	0.484	<u>0601</u>	<u>0.5162</u>	<u>0.4520</u>	<u>0.3719</u>	<u>0.477</u>
7307	0.4775	0.4158	0.3568	0.504	<u>0602</u>	<u>0.6825</u>	<u>0.5937</u>	<u>0.4874</u>	<u>0.426</u>
7308	0.3867	0.3352	0.2849	0.563	<u>0603</u>	<u>0.6977</u>	<u>0.6104</u>	<u>0.5051</u>	<u>0.426</u>
7309	0.3082	0.2677	0.2281	0.576	<u>0604</u>	<u>1.1138</u>	<u>0.9852</u>	<u>0.8251</u>	<u>0.461</u>
7400	1.9832	1.6867	1.4096	0.521))	<u>0606</u>	<u>0.6164</u>	<u>0.5403</u>	<u>0.4410</u>	<u>0.551</u>
<u>0101</u>	<u>1.2076</u>	<u>1.0574</u>	<u>0.8790</u>	<u>0.402</u>	<u>0607</u>	<u>0.7681</u>	<u>0.6750</u>	<u>0.5590</u>	<u>0.476</u>
<u>0103</u>	<u>1.5737</u>	<u>1.3849</u>	<u>1.1574</u>	<u>0.416</u>	<u>0608</u>	<u>0.3281</u>	<u>0.2876</u>	<u>0.2367</u>	<u>0.484</u>
<u>0104</u>	<u>1.0254</u>	<u>0.8982</u>	<u>0.7442</u>	<u>0.427</u>	<u>0701</u>	<u>1.5507</u>	<u>1.3384</u>	<u>1.0874</u>	<u>0.408</u>
<u>0105</u>	<u>1.3729</u>	<u>1.2027</u>	<u>0.9833</u>	<u>0.527</u>	<u>0803</u>	<u>0.5580</u>	<u>0.4881</u>	<u>0.3977</u>	<u>0.543</u>
<u>0106</u>	<u>1.8483</u>	<u>1.6195</u>	<u>1.3317</u>	<u>0.494</u>	<u>0901</u>	<u>1.2791</u>	<u>1.1180</u>	<u>0.9262</u>	<u>0.407</u>
<u>0107</u>	<u>0.9557</u>	<u>0.8382</u>	<u>0.6958</u>	<u>0.429</u>	<u>1002</u>	<u>0.8938</u>	<u>0.7854</u>	<u>0.6498</u>	<u>0.483</u>
<u>0108</u>	<u>1.0254</u>	<u>0.8982</u>	<u>0.7442</u>	<u>0.427</u>	<u>1003</u>	<u>0.7470</u>	<u>0.6554</u>	<u>0.5401</u>	<u>0.488</u>
<u>0112</u>	<u>0.8008</u>	<u>0.7026</u>	<u>0.5823</u>	<u>0.442</u>	<u>1004</u>	<u>0.4798</u>	<u>0.4177</u>	<u>0.3389</u>	<u>0.496</u>
<u>0201</u>	<u>1.5154</u>	<u>1.3204</u>	<u>1.0857</u>	<u>0.420</u>	<u>1005</u>	<u>8.2912</u>	<u>7.2351</u>	<u>5.9463</u>	<u>0.435</u>
<u>0202</u>	<u>3.0439</u>	<u>2.6681</u>	<u>2.2172</u>	<u>0.402</u>	<u>1006</u>	<u>0.1401</u>	<u>0.1226</u>	<u>0.0997</u>	<u>0.569</u>
<u>0210</u>	<u>0.9575</u>	<u>0.8381</u>	<u>0.6949</u>	<u>0.407</u>	<u>1007</u>	<u>0.2968</u>	<u>0.2589</u>	<u>0.2121</u>	<u>0.470</u>
<u>0212</u>	<u>1.3122</u>	<u>1.1508</u>	<u>0.9568</u>	<u>0.420</u>	<u>1101</u>	<u>0.8378</u>	<u>0.7335</u>	<u>0.6016</u>	<u>0.506</u>
<u>0214</u>	<u>1.3573</u>	<u>1.1857</u>	<u>0.9761</u>	<u>0.453</u>	<u>1102</u>	<u>1.4425</u>	<u>1.2596</u>	<u>1.0352</u>	<u>0.457</u>
<u>0217</u>	<u>1.3836</u>	<u>1.2131</u>	<u>1.0058</u>	<u>0.437</u>	<u>1103</u>	<u>1.1773</u>	<u>1.0319</u>	<u>0.8522</u>	<u>0.467</u>
<u>0219</u>	<u>0.9607</u>	<u>0.8405</u>	<u>0.6956</u>	<u>0.426</u>	<u>1104</u>	<u>0.6864</u>	<u>0.6038</u>	<u>0.4968</u>	<u>0.532</u>
<u>0301</u>	<u>0.8549</u>	<u>0.7545</u>	<u>0.6264</u>	<u>0.504</u>	<u>1105</u>	<u>0.8136</u>	<u>0.7152</u>	<u>0.5935</u>	<u>0.462</u>
<u>0302</u>	<u>2.2548</u>	<u>1.9679</u>	<u>1.6290</u>	<u>0.399</u>	<u>1106</u>	<u>0.2998</u>	<u>0.2663</u>	<u>0.2231</u>	<u>0.500</u>
<u>0303</u>	<u>1.8221</u>	<u>1.5983</u>	<u>1.3325</u>	<u>0.401</u>	<u>1108</u>	<u>0.5592</u>	<u>0.4928</u>	<u>0.4084</u>	<u>0.499</u>
<u>0306</u>	<u>0.9433</u>	<u>0.8231</u>	<u>0.6759</u>	<u>0.452</u>	<u>1109</u>	<u>1.4827</u>	<u>1.3039</u>	<u>1.0761</u>	<u>0.507</u>
<u>0307</u>	<u>0.9168</u>	<u>0.8021</u>	<u>0.6608</u>	<u>0.457</u>	<u>1301</u>	<u>0.5504</u>	<u>0.4774</u>	<u>0.3836</u>	<u>0.548</u>
<u>0308</u>	<u>0.6313</u>	<u>0.5593</u>	<u>0.4662</u>	<u>0.516</u>	<u>1303</u>	<u>0.2599</u>	<u>0.2270</u>	<u>0.1838</u>	<u>0.569</u>
<u>0403</u>	<u>1.7586</u>	<u>1.5424</u>	<u>1.2757</u>	<u>0.458</u>	<u>1304</u>	<u>0.0272</u>	<u>0.0238</u>	<u>0.0196</u>	<u>0.514</u>
<u>0502</u>	<u>1.3185</u>	<u>1.1521</u>	<u>0.9502</u>	<u>0.437</u>	<u>1305</u>	<u>0.4823</u>	<u>0.4237</u>	<u>0.3494</u>	<u>0.504</u>

Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio	Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio
<u>1401</u>	<u>0.2550</u>	<u>0.2272</u>	<u>0.1920</u>	<u>0.457</u>	<u>3402</u>	<u>0.4714</u>	<u>0.4145</u>	<u>0.3422</u>	<u>0.500</u>
<u>1404</u>	<u>0.8331</u>	<u>0.7339</u>	<u>0.6065</u>	<u>0.528</u>	<u>3403</u>	<u>0.1912</u>	<u>0.1684</u>	<u>0.1396</u>	<u>0.496</u>
<u>1405</u>	<u>0.8611</u>	<u>0.7533</u>	<u>0.6129</u>	<u>0.557</u>	<u>3404</u>	<u>0.4850</u>	<u>0.4273</u>	<u>0.3522</u>	<u>0.533</u>
<u>1407</u>	<u>0.5772</u>	<u>0.5083</u>	<u>0.4193</u>	<u>0.534</u>	<u>3405</u>	<u>0.2944</u>	<u>0.2588</u>	<u>0.2126</u>	<u>0.537</u>
<u>1501</u>	<u>0.6712</u>	<u>0.5873</u>	<u>0.4801</u>	<u>0.525</u>	<u>3406</u>	<u>0.2889</u>	<u>0.2546</u>	<u>0.2090</u>	<u>0.581</u>
<u>1507</u>	<u>0.6144</u>	<u>0.5402</u>	<u>0.4455</u>	<u>0.510</u>	<u>3407</u>	<u>0.7142</u>	<u>0.6240</u>	<u>0.5117</u>	<u>0.484</u>
<u>1701</u>	<u>0.7548</u>	<u>0.6579</u>	<u>0.5352</u>	<u>0.507</u>	<u>3408</u>	<u>0.2391</u>	<u>0.2090</u>	<u>0.1683</u>	<u>0.616</u>
<u>1702</u>	<u>1.5331</u>	<u>1.3399</u>	<u>1.1167</u>	<u>0.360</u>	<u>3409</u>	<u>0.1647</u>	<u>0.1451</u>	<u>0.1188</u>	<u>0.603</u>
<u>1703</u>	<u>0.9073</u>	<u>0.7881</u>	<u>0.6468</u>	<u>0.409</u>	<u>3410</u>	<u>0.1999</u>	<u>0.1767</u>	<u>0.1459</u>	<u>0.576</u>
<u>1704</u>	<u>0.7548</u>	<u>0.6579</u>	<u>0.5352</u>	<u>0.507</u>	<u>3411</u>	<u>0.4868</u>	<u>0.4269</u>	<u>0.3515</u>	<u>0.496</u>
<u>1801</u>	<u>0.4379</u>	<u>0.3856</u>	<u>0.3210</u>	<u>0.454</u>	<u>3412</u>	<u>0.6006</u>	<u>0.5253</u>	<u>0.4323</u>	<u>0.465</u>
<u>1802</u>	<u>0.7352</u>	<u>0.6439</u>	<u>0.5272</u>	<u>0.498</u>	<u>3414</u>	<u>0.7436</u>	<u>0.6551</u>	<u>0.5443</u>	<u>0.472</u>
<u>2002</u>	<u>0.8560</u>	<u>0.7536</u>	<u>0.6253</u>	<u>0.478</u>	<u>3415</u>	<u>0.7906</u>	<u>0.6970</u>	<u>0.5838</u>	<u>0.416</u>
<u>2004</u>	<u>0.6586</u>	<u>0.5798</u>	<u>0.4776</u>	<u>0.527</u>	<u>3501</u>	<u>1.0681</u>	<u>0.9378</u>	<u>0.7724</u>	<u>0.500</u>
<u>2007</u>	<u>0.7167</u>	<u>0.6348</u>	<u>0.5311</u>	<u>0.483</u>	<u>3503</u>	<u>0.3248</u>	<u>0.2882</u>	<u>0.2395</u>	<u>0.540</u>
<u>2008</u>	<u>0.3746</u>	<u>0.3307</u>	<u>0.2750</u>	<u>0.494</u>	<u>3506</u>	<u>0.8600</u>	<u>0.7488</u>	<u>0.6072</u>	<u>0.529</u>
<u>2009</u>	<u>0.3447</u>	<u>0.3045</u>	<u>0.2513</u>	<u>0.561</u>	<u>3509</u>	<u>0.4242</u>	<u>0.3737</u>	<u>0.3067</u>	<u>0.584</u>
<u>2101</u>	<u>0.6861</u>	<u>0.6089</u>	<u>0.5106</u>	<u>0.488</u>	<u>3510</u>	<u>0.3493</u>	<u>0.3081</u>	<u>0.2539</u>	<u>0.551</u>
<u>2102</u>	<u>0.6985</u>	<u>0.6131</u>	<u>0.5030</u>	<u>0.535</u>	<u>3511</u>	<u>0.6756</u>	<u>0.5944</u>	<u>0.4895</u>	<u>0.519</u>
<u>2104</u>	<u>0.3362</u>	<u>0.3002</u>	<u>0.2509</u>	<u>0.582</u>	<u>3512</u>	<u>0.3793</u>	<u>0.3345</u>	<u>0.2754</u>	<u>0.547</u>
<u>2105</u>	<u>0.6670</u>	<u>0.5864</u>	<u>0.4827</u>	<u>0.523</u>	<u>3513</u>	<u>0.6193</u>	<u>0.5487</u>	<u>0.4572</u>	<u>0.513</u>
<u>2106</u>	<u>0.4604</u>	<u>0.4079</u>	<u>0.3405</u>	<u>0.493</u>	<u>3602</u>	<u>0.0971</u>	<u>0.0857</u>	<u>0.0709</u>	<u>0.528</u>
<u>2201</u>	<u>0.2756</u>	<u>0.2436</u>	<u>0.2020</u>	<u>0.541</u>	<u>3603</u>	<u>0.5320</u>	<u>0.4701</u>	<u>0.3895</u>	<u>0.528</u>
<u>2202</u>	<u>0.7481</u>	<u>0.6566</u>	<u>0.5404</u>	<u>0.509</u>	<u>3604</u>	<u>0.7011</u>	<u>0.6243</u>	<u>0.5262</u>	<u>0.470</u>
<u>2203</u>	<u>0.5075</u>	<u>0.4485</u>	<u>0.3710</u>	<u>0.543</u>	<u>3605</u>	<u>0.5446</u>	<u>0.4770</u>	<u>0.3905</u>	<u>0.519</u>
<u>2204</u>	<u>0.2756</u>	<u>0.2436</u>	<u>0.2020</u>	<u>0.541</u>	<u>3701</u>	<u>0.2710</u>	<u>0.2384</u>	<u>0.1970</u>	<u>0.493</u>
<u>2401</u>	<u>0.4089</u>	<u>0.3569</u>	<u>0.2910</u>	<u>0.512</u>	<u>3702</u>	<u>0.4754</u>	<u>0.4179</u>	<u>0.3429</u>	<u>0.545</u>
<u>2903</u>	<u>0.7261</u>	<u>0.6420</u>	<u>0.5336</u>	<u>0.511</u>	<u>3708</u>	<u>0.6941</u>	<u>0.6094</u>	<u>0.5004</u>	<u>0.530</u>
<u>2904</u>	<u>0.6977</u>	<u>0.6121</u>	<u>0.5035</u>	<u>0.511</u>	<u>3802</u>	<u>0.2346</u>	<u>0.2073</u>	<u>0.1716</u>	<u>0.544</u>
<u>2905</u>	<u>0.5905</u>	<u>0.5208</u>	<u>0.4312</u>	<u>0.515</u>	<u>3808</u>	<u>0.4125</u>	<u>0.3618</u>	<u>0.2986</u>	<u>0.476</u>
<u>2906</u>	<u>0.3900</u>	<u>0.3459</u>	<u>0.2887</u>	<u>0.509</u>	<u>3901</u>	<u>0.1505</u>	<u>0.1338</u>	<u>0.1110</u>	<u>0.602</u>
<u>2907</u>	<u>0.5077</u>	<u>0.4466</u>	<u>0.3668</u>	<u>0.547</u>	<u>3902</u>	<u>0.4578</u>	<u>0.4049</u>	<u>0.3349</u>	<u>0.554</u>
<u>2908</u>	<u>1.1170</u>	<u>0.9883</u>	<u>0.8232</u>	<u>0.491</u>	<u>3903</u>	<u>1.1607</u>	<u>1.0316</u>	<u>0.8650</u>	<u>0.507</u>
<u>2909</u>	<u>0.4170</u>	<u>0.3679</u>	<u>0.3036</u>	<u>0.535</u>	<u>3905</u>	<u>0.1461</u>	<u>0.1300</u>	<u>0.1079</u>	<u>0.583</u>
<u>3101</u>	<u>0.7628</u>	<u>0.6700</u>	<u>0.5512</u>	<u>0.518</u>	<u>3906</u>	<u>0.4946</u>	<u>0.4379</u>	<u>0.3636</u>	<u>0.536</u>
<u>3102</u>	<u>0.2710</u>	<u>0.2384</u>	<u>0.1970</u>	<u>0.493</u>	<u>3909</u>	<u>0.3340</u>	<u>0.2962</u>	<u>0.2465</u>	<u>0.539</u>
<u>3103</u>	<u>0.4880</u>	<u>0.4298</u>	<u>0.3571</u>	<u>0.467</u>	<u>4101</u>	<u>0.3285</u>	<u>0.2886</u>	<u>0.2375</u>	<u>0.513</u>
<u>3104</u>	<u>0.6754</u>	<u>0.5928</u>	<u>0.4885</u>	<u>0.501</u>	<u>4103</u>	<u>0.5629</u>	<u>0.4953</u>	<u>0.4074</u>	<u>0.540</u>
<u>3105</u>	<u>0.7597</u>	<u>0.6693</u>	<u>0.5518</u>	<u>0.532</u>	<u>4107</u>	<u>0.1851</u>	<u>0.1631</u>	<u>0.1346</u>	<u>0.527</u>
<u>3303</u>	<u>0.4159</u>	<u>0.3657</u>	<u>0.3012</u>	<u>0.517</u>	<u>4108</u>	<u>0.1837</u>	<u>0.1620</u>	<u>0.1339</u>	<u>0.548</u>
<u>3304</u>	<u>0.5804</u>	<u>0.5150</u>	<u>0.4295</u>	<u>0.539</u>	<u>4109</u>	<u>0.2055</u>	<u>0.1813</u>	<u>0.1502</u>	<u>0.521</u>
<u>3309</u>	<u>0.4246</u>	<u>0.3746</u>	<u>0.3113</u>	<u>0.497</u>	<u>4201</u>	<u>0.6709</u>	<u>0.5838</u>	<u>0.4748</u>	<u>0.508</u>

Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio	Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio
<u>4301</u>	<u>0.7700</u>	<u>0.6792</u>	<u>0.5593</u>	<u>0.561</u>	<u>5101</u>	<u>0.9594</u>	<u>0.8407</u>	<u>0.6946</u>	<u>0.447</u>
<u>4302</u>	<u>0.8798</u>	<u>0.7749</u>	<u>0.6381</u>	<u>0.549</u>	<u>5103</u>	<u>0.7903</u>	<u>0.6997</u>	<u>0.5806</u>	<u>0.532</u>
<u>4304</u>	<u>0.9764</u>	<u>0.8672</u>	<u>0.7252</u>	<u>0.512</u>	<u>5106</u>	<u>0.7903</u>	<u>0.6997</u>	<u>0.5806</u>	<u>0.532</u>
<u>4305</u>	<u>1.2296</u>	<u>1.0691</u>	<u>0.8660</u>	<u>0.522</u>	<u>5108</u>	<u>0.8067</u>	<u>0.7126</u>	<u>0.5914</u>	<u>0.520</u>
<u>4401</u>	<u>0.4396</u>	<u>0.3900</u>	<u>0.3264</u>	<u>0.490</u>	<u>5109</u>	<u>0.6158</u>	<u>0.5369</u>	<u>0.4381</u>	<u>0.492</u>
<u>4402</u>	<u>0.7739</u>	<u>0.6783</u>	<u>0.5525</u>	<u>0.578</u>	<u>5201</u>	<u>0.3517</u>	<u>0.3072</u>	<u>0.2492</u>	<u>0.554</u>
<u>4404</u>	<u>0.4923</u>	<u>0.4352</u>	<u>0.3622</u>	<u>0.488</u>	<u>5204</u>	<u>1.0078</u>	<u>0.8847</u>	<u>0.7340</u>	<u>0.450</u>
<u>4501</u>	<u>0.1856</u>	<u>0.1635</u>	<u>0.1338</u>	<u>0.589</u>	<u>5206</u>	<u>0.4070</u>	<u>0.3573</u>	<u>0.2956</u>	<u>0.472</u>
<u>4502</u>	<u>0.0530</u>	<u>0.0467</u>	<u>0.0385</u>	<u>0.534</u>	<u>5207</u>	<u>0.1656</u>	<u>0.1471</u>	<u>0.1224</u>	<u>0.556</u>
<u>4504</u>	<u>0.1137</u>	<u>0.1006</u>	<u>0.0830</u>	<u>0.578</u>	<u>5208</u>	<u>0.7485</u>	<u>0.6587</u>	<u>0.5437</u>	<u>0.503</u>
<u>4802</u>	<u>0.3406</u>	<u>0.3020</u>	<u>0.2513</u>	<u>0.533</u>	<u>5209</u>	<u>0.6582</u>	<u>0.5799</u>	<u>0.4822</u>	<u>0.466</u>
<u>4803</u>	<u>0.3538</u>	<u>0.3153</u>	<u>0.2632</u>	<u>0.584</u>	<u>5300</u>	<u>0.1102</u>	<u>0.0967</u>	<u>0.0786</u>	<u>0.602</u>
<u>4804</u>	<u>0.5402</u>	<u>0.4795</u>	<u>0.3991</u>	<u>0.564</u>	<u>5301</u>	<u>0.0351</u>	<u>0.0309</u>	<u>0.0254</u>	<u>0.542</u>
<u>4805</u>	<u>0.3881</u>	<u>0.3434</u>	<u>0.2848</u>	<u>0.550</u>	<u>5302</u>	<u>0.0115</u>	<u>0.0100</u>	<u>0.0082</u>	<u>0.541</u>
<u>4806</u>	<u>0.0871</u>	<u>0.0776</u>	<u>0.0648</u>	<u>0.583</u>	<u>5305</u>	<u>0.0548</u>	<u>0.0485</u>	<u>0.0401</u>	<u>0.576</u>
<u>4808</u>	<u>0.4650</u>	<u>0.4105</u>	<u>0.3406</u>	<u>0.504</u>	<u>5306</u>	<u>0.0465</u>	<u>0.0410</u>	<u>0.0335</u>	<u>0.584</u>
<u>4809</u>	<u>0.3526</u>	<u>0.3130</u>	<u>0.2604</u>	<u>0.550</u>	<u>5307</u>	<u>0.7382</u>	<u>0.6448</u>	<u>0.5267</u>	<u>0.514</u>
<u>4810</u>	<u>0.1979</u>	<u>0.1760</u>	<u>0.1462</u>	<u>0.597</u>	<u>5308</u>	<u>0.1003</u>	<u>0.0882</u>	<u>0.0722</u>	<u>0.577</u>
<u>4811</u>	<u>0.3901</u>	<u>0.3475</u>	<u>0.2904</u>	<u>0.549</u>	<u>6103</u>	<u>0.0978</u>	<u>0.0868</u>	<u>0.0716</u>	<u>0.602</u>
<u>4812</u>	<u>0.4065</u>	<u>0.3599</u>	<u>0.2983</u>	<u>0.546</u>	<u>6104</u>	<u>0.4909</u>	<u>0.4314</u>	<u>0.3548</u>	<u>0.529</u>
<u>4813</u>	<u>0.1995</u>	<u>0.1774</u>	<u>0.1478</u>	<u>0.561</u>	<u>6105</u>	<u>0.3921</u>	<u>0.3442</u>	<u>0.2834</u>	<u>0.514</u>
<u>4814</u>	<u>0.1422</u>	<u>0.1277</u>	<u>0.1080</u>	<u>0.571</u>	<u>6107</u>	<u>0.1340</u>	<u>0.1195</u>	<u>0.0992</u>	<u>0.590</u>
<u>4815</u>	<u>0.2893</u>	<u>0.2607</u>	<u>0.2213</u>	<u>0.584</u>	<u>6108</u>	<u>0.4019</u>	<u>0.3559</u>	<u>0.2941</u>	<u>0.569</u>
<u>4816</u>	<u>0.4080</u>	<u>0.3668</u>	<u>0.3121</u>	<u>0.523</u>	<u>6109</u>	<u>0.1077</u>	<u>0.0944</u>	<u>0.0773</u>	<u>0.541</u>
<u>4900</u>	<u>0.1689</u>	<u>0.1479</u>	<u>0.1229</u>	<u>0.421</u>	<u>6110</u>	<u>0.6097</u>	<u>0.5373</u>	<u>0.4437</u>	<u>0.527</u>
<u>4901</u>	<u>0.0473</u>	<u>0.0414</u>	<u>0.0338</u>	<u>0.491</u>	<u>6120</u>	<u>0.3235</u>	<u>0.2829</u>	<u>0.2305</u>	<u>0.540</u>
<u>4902</u>	<u>0.1229</u>	<u>0.1080</u>	<u>0.0885</u>	<u>0.553</u>	<u>6121</u>	<u>0.3557</u>	<u>0.3131</u>	<u>0.2598</u>	<u>0.485</u>
<u>4903</u>	<u>0.1797</u>	<u>0.1577</u>	<u>0.1286</u>	<u>0.586</u>	<u>6201</u>	<u>0.3045</u>	<u>0.2685</u>	<u>0.2235</u>	<u>0.473</u>
<u>4904</u>	<u>0.0217</u>	<u>0.0191</u>	<u>0.0158</u>	<u>0.557</u>	<u>6202</u>	<u>0.7149</u>	<u>0.6285</u>	<u>0.5178</u>	<u>0.509</u>
<u>4905</u>	<u>0.4504</u>	<u>0.4014</u>	<u>0.3355</u>	<u>0.573</u>	<u>6203</u>	<u>0.1222</u>	<u>0.1090</u>	<u>0.0906</u>	<u>0.620</u>
<u>4906</u>	<u>0.1127</u>	<u>0.0987</u>	<u>0.0804</u>	<u>0.559</u>	<u>6204</u>	<u>0.1391</u>	<u>0.1232</u>	<u>0.1021</u>	<u>0.564</u>
<u>4907</u>	<u>0.0646</u>	<u>0.0573</u>	<u>0.0476</u>	<u>0.568</u>	<u>6205</u>	<u>0.2191</u>	<u>0.1942</u>	<u>0.1613</u>	<u>0.538</u>
<u>4908</u>	<u>0.1023</u>	<u>0.0904</u>	<u>0.0736</u>	<u>0.585</u>	<u>6206</u>	<u>0.2156</u>	<u>0.1907</u>	<u>0.1575</u>	<u>0.562</u>
<u>4909</u>	<u>0.0401</u>	<u>0.0358</u>	<u>0.0296</u>	<u>0.508</u>	<u>6207</u>	<u>1.3887</u>	<u>1.2323</u>	<u>1.0309</u>	<u>0.504</u>
<u>4910</u>	<u>0.4537</u>	<u>0.3993</u>	<u>0.3294</u>	<u>0.519</u>	<u>6208</u>	<u>0.2676</u>	<u>0.2374</u>	<u>0.1965</u>	<u>0.573</u>
<u>4911</u>	<u>0.0684</u>	<u>0.0601</u>	<u>0.0496</u>	<u>0.494</u>	<u>6209</u>	<u>0.3085</u>	<u>0.2739</u>	<u>0.2284</u>	<u>0.529</u>
<u>5001</u>	<u>7.7450</u>	<u>6.7925</u>	<u>5.6705</u>	<u>0.378</u>	<u>6301</u>	<u>0.1267</u>	<u>0.1108</u>	<u>0.0909</u>	<u>0.490</u>
<u>5002</u>	<u>0.6235</u>	<u>0.5456</u>	<u>0.4451</u>	<u>0.539</u>	<u>6303</u>	<u>0.0700</u>	<u>0.0615</u>	<u>0.0505</u>	<u>0.530</u>
<u>5003</u>	<u>1.9792</u>	<u>1.7249</u>	<u>1.4189</u>	<u>0.428</u>	<u>6304</u>	<u>0.3074</u>	<u>0.2727</u>	<u>0.2258</u>	<u>0.571</u>
<u>5004</u>	<u>0.8018</u>	<u>0.7109</u>	<u>0.5981</u>	<u>0.450</u>	<u>6305</u>	<u>0.1112</u>	<u>0.0984</u>	<u>0.0809</u>	<u>0.606</u>
<u>5005</u>	<u>0.7739</u>	<u>0.6804</u>	<u>0.5664</u>	<u>0.427</u>	<u>6306</u>	<u>0.3423</u>	<u>0.3012</u>	<u>0.2482</u>	<u>0.529</u>
<u>5006</u>	<u>1.3549</u>	<u>1.1879</u>	<u>0.9922</u>	<u>0.374</u>	<u>6308</u>	<u>0.0652</u>	<u>0.0573</u>	<u>0.0472</u>	<u>0.519</u>

Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio	Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio
<u>6309</u>	<u>0.2035</u>	<u>0.1797</u>	<u>0.1485</u>	<u>0.542</u>	<u>6904</u>	<u>0.8407</u>	<u>0.7295</u>	<u>0.5886</u>	<u>0.524</u>
<u>6402</u>	<u>0.2931</u>	<u>0.2587</u>	<u>0.2127</u>	<u>0.582</u>	<u>6905</u>	<u>0.5968</u>	<u>0.5189</u>	<u>0.4175</u>	<u>0.569</u>
<u>6403</u>	<u>0.1859</u>	<u>0.1645</u>	<u>0.1355</u>	<u>0.587</u>	<u>6906</u>	<u>0.2332</u>	<u>0.2193</u>	<u>0.1962</u>	<u>0.660</u>
<u>6404</u>	<u>0.2982</u>	<u>0.2645</u>	<u>0.2194</u>	<u>0.572</u>	<u>6907</u>	<u>1.1709</u>	<u>1.0305</u>	<u>0.8490</u>	<u>0.533</u>
<u>6405</u>	<u>0.5123</u>	<u>0.4498</u>	<u>0.3698</u>	<u>0.521</u>	<u>6908</u>	<u>0.3931</u>	<u>0.3461</u>	<u>0.2856</u>	<u>0.529</u>
<u>6406</u>	<u>0.1263</u>	<u>0.1118</u>	<u>0.0923</u>	<u>0.589</u>	<u>6909</u>	<u>0.1214</u>	<u>0.1071</u>	<u>0.0883</u>	<u>0.532</u>
<u>6407</u>	<u>0.2599</u>	<u>0.2299</u>	<u>0.1902</u>	<u>0.562</u>	<u>7100</u>	<u>0.0333</u>	<u>0.0296</u>	<u>0.0249</u>	<u>0.466</u>
<u>6408</u>	<u>0.5226</u>	<u>0.4618</u>	<u>0.3846</u>	<u>0.491</u>	<u>7101</u>	<u>0.0254</u>	<u>0.0222</u>	<u>0.0184</u>	<u>0.457</u>
<u>6409</u>	<u>0.6650</u>	<u>0.5839</u>	<u>0.4820</u>	<u>0.487</u>	<u>7103</u>	<u>0.8062</u>	<u>0.7024</u>	<u>0.5694</u>	<u>0.537</u>
<u>6410</u>	<u>0.3226</u>	<u>0.2829</u>	<u>0.2314</u>	<u>0.542</u>	<u>7104</u>	<u>0.0322</u>	<u>0.0284</u>	<u>0.0234</u>	<u>0.570</u>
<u>6501</u>	<u>0.1375</u>	<u>0.1207</u>	<u>0.0984</u>	<u>0.589</u>	<u>7105</u>	<u>0.0211</u>	<u>0.0186</u>	<u>0.0153</u>	<u>0.533</u>
<u>6502</u>	<u>0.0326</u>	<u>0.0289</u>	<u>0.0239</u>	<u>0.536</u>	<u>7106</u>	<u>0.2808</u>	<u>0.2481</u>	<u>0.2041</u>	<u>0.610</u>
<u>6503</u>	<u>0.0721</u>	<u>0.0631</u>	<u>0.0514</u>	<u>0.535</u>	<u>7107</u>	<u>0.2786</u>	<u>0.2483</u>	<u>0.2073</u>	<u>0.569</u>
<u>6504</u>	<u>0.3556</u>	<u>0.3157</u>	<u>0.2612</u>	<u>0.593</u>	<u>7108</u>	<u>0.1928</u>	<u>0.1709</u>	<u>0.1418</u>	<u>0.563</u>
<u>6505</u>	<u>0.1523</u>	<u>0.1351</u>	<u>0.1108</u>	<u>0.648</u>	<u>7109</u>	<u>0.1398</u>	<u>0.1235</u>	<u>0.1019</u>	<u>0.574</u>
<u>6506</u>	<u>0.1272</u>	<u>0.1124</u>	<u>0.0927</u>	<u>0.566</u>	<u>7110</u>	<u>0.3316</u>	<u>0.2919</u>	<u>0.2433</u>	<u>0.442</u>
<u>6509</u>	<u>0.3258</u>	<u>0.2892</u>	<u>0.2395</u>	<u>0.574</u>	<u>7111</u>	<u>0.4520</u>	<u>0.3944</u>	<u>0.3237</u>	<u>0.459</u>
<u>6510</u>	<u>0.4495</u>	<u>0.3945</u>	<u>0.3274</u>	<u>0.440</u>	<u>7112</u>	<u>0.8147</u>	<u>0.7193</u>	<u>0.5923</u>	<u>0.573</u>
<u>6511</u>	<u>0.4010</u>	<u>0.3542</u>	<u>0.2924</u>	<u>0.559</u>	<u>7113</u>	<u>0.4354</u>	<u>0.3855</u>	<u>0.3194</u>	<u>0.565</u>
<u>6512</u>	<u>0.1137</u>	<u>0.1001</u>	<u>0.0828</u>	<u>0.493</u>	<u>7114</u>	<u>0.7858</u>	<u>0.6959</u>	<u>0.5741</u>	<u>0.599</u>
<u>6601</u>	<u>0.2187</u>	<u>0.1930</u>	<u>0.1600</u>	<u>0.518</u>	<u>7115</u>	<u>0.5206</u>	<u>0.4615</u>	<u>0.3832</u>	<u>0.561</u>
<u>6602</u>	<u>0.6023</u>	<u>0.5348</u>	<u>0.4470</u>	<u>0.526</u>	<u>7116</u>	<u>0.6161</u>	<u>0.5439</u>	<u>0.4515</u>	<u>0.506</u>
<u>6603</u>	<u>0.2957</u>	<u>0.2598</u>	<u>0.2138</u>	<u>0.519</u>	<u>7117</u>	<u>1.1903</u>	<u>1.0487</u>	<u>0.8605</u>	<u>0.565</u>
<u>6604</u>	<u>0.0913</u>	<u>0.0806</u>	<u>0.0661</u>	<u>0.582</u>	<u>7118</u>	<u>1.7771</u>	<u>1.5701</u>	<u>1.3036</u>	<u>0.518</u>
<u>6605</u>	<u>0.2983</u>	<u>0.2615</u>	<u>0.2128</u>	<u>0.559</u>	<u>7119</u>	<u>1.5853</u>	<u>1.3855</u>	<u>1.1226</u>	<u>0.579</u>
<u>6607</u>	<u>0.1451</u>	<u>0.1283</u>	<u>0.1066</u>	<u>0.519</u>	<u>7120</u>	<u>6.2901</u>	<u>5.5445</u>	<u>4.5972</u>	<u>0.499</u>
<u>6608</u>	<u>0.5937</u>	<u>0.5175</u>	<u>0.4272</u>	<u>0.405</u>	<u>7121</u>	<u>5.8042</u>	<u>5.1131</u>	<u>4.2298</u>	<u>0.504</u>
<u>6620</u>	<u>3.2769</u>	<u>2.8476</u>	<u>2.2823</u>	<u>0.586</u>	<u>7122</u>	<u>0.3885</u>	<u>0.3428</u>	<u>0.2832</u>	<u>0.535</u>
<u>6704</u>	<u>0.1252</u>	<u>0.1102</u>	<u>0.0900</u>	<u>0.583</u>	<u>7200</u>	<u>1.8289</u>	<u>1.5928</u>	<u>1.2955</u>	<u>0.511</u>
<u>6705</u>	<u>0.8465</u>	<u>0.7525</u>	<u>0.6241</u>	<u>0.609</u>	<u>7201</u>	<u>1.8108</u>	<u>1.5815</u>	<u>1.2926</u>	<u>0.508</u>
<u>6706</u>	<u>0.3014</u>	<u>0.2682</u>	<u>0.2249</u>	<u>0.525</u>	<u>7202</u>	<u>0.0301</u>	<u>0.0264</u>	<u>0.0217</u>	<u>0.532</u>
<u>6707</u>	<u>7.1875</u>	<u>6.3348</u>	<u>5.1392</u>	<u>0.682</u>	<u>7203</u>	<u>0.1242</u>	<u>0.1111</u>	<u>0.0921</u>	<u>0.614</u>
<u>6708</u>	<u>9.1145</u>	<u>8.2345</u>	<u>7.0836</u>	<u>0.452</u>	<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>6709</u>	<u>0.2764</u>	<u>0.2447</u>	<u>0.2030</u>	<u>0.539</u>	<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.500</u>
<u>6801</u>	<u>0.7999</u>	<u>0.6949</u>	<u>0.5604</u>	<u>0.545</u>	<u>7301</u>	<u>0.4855</u>	<u>0.4301</u>	<u>0.3580</u>	<u>0.516</u>
<u>6802</u>	<u>0.6842</u>	<u>0.6032</u>	<u>0.4962</u>	<u>0.570</u>	<u>7302</u>	<u>0.9636</u>	<u>0.8535</u>	<u>0.7140</u>	<u>0.481</u>
<u>6803</u>	<u>0.6323</u>	<u>0.5531</u>	<u>0.4621</u>	<u>0.348</u>	<u>7307</u>	<u>0.4682</u>	<u>0.4145</u>	<u>0.3442</u>	<u>0.533</u>
<u>6804</u>	<u>0.3069</u>	<u>0.2716</u>	<u>0.2247</u>	<u>0.543</u>	<u>7308</u>	<u>0.3337</u>	<u>0.2964</u>	<u>0.2464</u>	<u>0.548</u>
<u>6809</u>	<u>5.8524</u>	<u>5.1801</u>	<u>4.2393</u>	<u>0.600</u>	<u>7309</u>	<u>0.2901</u>	<u>0.2570</u>	<u>0.2121</u>	<u>0.595</u>
<u>6901</u>	<u>0.0212</u>	<u>0.0202</u>	<u>0.0171</u>	<u>0.775</u>	<u>7400</u>	<u>2.1033</u>	<u>1.8317</u>	<u>1.4897</u>	<u>0.511</u>
<u>6902</u>	<u>0.8889</u>	<u>0.7786</u>	<u>0.6462</u>	<u>0.420</u>					
<u>6903</u>	<u>6.5538</u>	<u>5.7938</u>	<u>4.9227</u>	<u>0.339</u>					

**Expected Loss Rates in Dollars Per Sq. Ft.
of Wallboard Installed**

Expected Loss Range

Maximum Experience Modification

Class	((2011)) <u>2012</u>	((2012)) <u>2013</u>	((2013)) <u>2014</u>	Primary Ratio	Expected Loss Range	Maximum Experience Modification
					32,290 - 33,769	0.66
					33,770 - 35,292	0.65
((0540))	0.0288	0.0247	0.0212	0.417	35,293 - 37,664	0.64
0541	0.0134	0.0116	0.0099	0.419	37,665 - 40,891	0.63
0550	0.0296	0.0254	0.0218	0.425	40,892 - 44,620	0.62
0551	0.0149	0.0128	0.0110	0.411))	44,621 - 51,872	0.61
<u>0540</u>	<u>0.0270</u>	<u>0.0237</u>	<u>0.0196</u>	<u>0.419</u>	51,873 and higher	0.60))
<u>0541</u>	<u>0.0123</u>	<u>0.0108</u>	<u>0.0090</u>	<u>0.420</u>	<u>1</u> = <u>6.682</u>	<u>0.90</u>
<u>0550</u>	<u>0.0302</u>	<u>0.0265</u>	<u>0.0221</u>	<u>0.417</u>	<u>6.683</u> = <u>8.159</u>	<u>0.89</u>
<u>0551</u>	<u>0.0143</u>	<u>0.0126</u>	<u>0.0105</u>	<u>0.404</u>	<u>8.160</u> = <u>9.039</u>	<u>0.88</u>

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-890 Table IV.

**Maximum experience modifications
for firms with no compensable accidents:
Effective January 1, ~~((2015))~~ 2016**

Expected Loss Range	Maximum Experience Modification
(+ - 6,997	0.90
6,998 - 8,544	0.89
8,545 - 9,465	0.88
9,466 - 10,316	0.87
10,317 - 11,216	0.86
11,217 - 12,157	0.85
12,158 - 12,986	0.84
12,987 - 13,827	0.83
13,828 - 14,702	0.82
14,703 - 15,613	0.81
15,614 - 16,560	0.80
16,561 - 17,543	0.79
17,544 - 18,565	0.78
18,566 - 19,619	0.77
19,620 - 20,715	0.76
20,716 - 21,845	0.75
21,846 - 23,016	0.74
23,017 - 24,222	0.73
24,223 - 25,470	0.72
25,471 - 26,754	0.71
26,755 - 28,079	0.70
28,080 - 29,443	0.69
29,444 - 30,845	0.68
30,846 - 32,289	0.67

32,290 - 33,769	0.66
33,770 - 35,292	0.65
35,293 - 37,664	0.64
37,665 - 40,891	0.63
40,892 - 44,620	0.62
44,621 - 51,872	0.61
51,873 and higher	0.60))
<u>1</u> = <u>6.682</u>	<u>0.90</u>
<u>6.683</u> = <u>8.159</u>	<u>0.89</u>
<u>8.160</u> = <u>9.039</u>	<u>0.88</u>
<u>9.040</u> = <u>9.852</u>	<u>0.87</u>
<u>9.853</u> = <u>10.711</u>	<u>0.86</u>
<u>10.712</u> = <u>11.610</u>	<u>0.85</u>
<u>11.611</u> = <u>12.402</u>	<u>0.84</u>
<u>12.403</u> = <u>13.205</u>	<u>0.83</u>
<u>13.206</u> = <u>14.040</u>	<u>0.82</u>
<u>14.041</u> = <u>14.910</u>	<u>0.81</u>
<u>14.911</u> = <u>15.815</u>	<u>0.80</u>
<u>15.816</u> = <u>16.754</u>	<u>0.79</u>
<u>16.755</u> = <u>17.730</u>	<u>0.78</u>
<u>17.731</u> = <u>18.736</u>	<u>0.77</u>
<u>18.737</u> = <u>19.783</u>	<u>0.76</u>
<u>19.784</u> = <u>20.862</u>	<u>0.75</u>
<u>20.863</u> = <u>21.980</u>	<u>0.74</u>
<u>21.981</u> = <u>23.132</u>	<u>0.73</u>
<u>23.133</u> = <u>24.324</u>	<u>0.72</u>
<u>24.325</u> = <u>25.550</u>	<u>0.71</u>
<u>25.551</u> = <u>26.815</u>	<u>0.70</u>
<u>26.816</u> = <u>28.118</u>	<u>0.69</u>
<u>28.119</u> = <u>29.457</u>	<u>0.68</u>
<u>29.458</u> = <u>30.836</u>	<u>0.67</u>
<u>30.837</u> = <u>32.249</u>	<u>0.66</u>
<u>32.250</u> = <u>33.704</u>	<u>0.65</u>
<u>33.705</u> = <u>35.969</u>	<u>0.64</u>
<u>35.970</u> = <u>39.051</u>	<u>0.63</u>
<u>39.052</u> = <u>42.612</u>	<u>0.62</u>
<u>42.613</u> = <u>49.538</u>	<u>0.61</u>
<u>49.539</u> and higher	<u>0.60</u>

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-895 Industrial insurance accident fund base rates, stay at work and medical aid base rates by class of industry. Industrial insurance accident fund, stay at work and medical aid fund base rates by class of industry shall be as set forth below.

**Base Rates Effective
January 1, ((2015)) 2016**

Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
((0101	2.2621	0.0462	0.8413	0519	2.5350	0.0514	1.1896
0103	2.5025	0.0507	1.1821	0521	0.7718	0.0156	0.4044
0104	1.6229	0.0329	0.7176	0601	0.8848	0.0179	0.4065
0105	1.9768	0.0397	1.1578	0602	1.1631	0.0238	0.4125
0106	2.5237	0.0510	1.2439	0603	1.2736	0.0260	0.4983
0107	1.5542	0.0315	0.6957	0604	1.5526	0.0310	0.9953
0108	1.6229	0.0329	0.7176	0606	0.8141	0.0163	0.5058
0112	1.2050	0.0244	0.5700	0607	1.0682	0.0215	0.5919
0201	3.0762	0.0630	1.0339	0608	0.4785	0.0096	0.2583
0202	5.0960	0.1035	2.2059	0701	3.1691	0.0653	0.7905
0210	1.6385	0.0334	0.6693	0803	0.7576	0.0152	0.4406
0212	2.0315	0.0413	0.8710	0901	2.2308	0.0455	0.8286
0214	2.2095	0.0450	0.9162	1002	1.3143	0.0265	0.6776
0217	2.2434	0.0455	0.9889	1003	1.0813	0.0217	0.6093
0219	1.6204	0.0330	0.6745	1004	0.7816	0.0158	0.3743
0301	1.1443	0.0229	0.7321	1005	13.2154	0.2687	5.5583
0302	3.8666	0.0791	1.3404	1006	0.1436	0.0029	0.0905
0303	2.8050	0.0571	1.1513	1007	0.5134	0.0104	0.2105
0306	1.6429	0.0335	0.6542	1101	1.1683	0.0235	0.6235
0307	1.4460	0.0293	0.6499	1102	2.2227	0.0451	0.9993
0308	0.7557	0.0150	0.5732	1103	1.8658	0.0378	0.8912
0403	2.6534	0.0537	1.2740	1104	0.8701	0.0174	0.5838
0502	2.2238	0.0453	0.8843	1105	1.3145	0.0266	0.6468
0504	2.5773	0.0519	1.4268	1106	0.3859	0.0076	0.3027
0507	4.7270	0.0950	2.7160	1108	0.7936	0.0159	0.4941
0508	2.9435	0.0603	0.9404	1109	2.0041	0.0402	1.1671
0509	2.1222	0.0433	0.7960	1301	0.8300	0.0168	0.3924
0510	3.2034	0.0647	1.6188	1303	0.3303	0.0066	0.1953
0511	2.4892	0.0506	1.0787	1304	0.0407	0.0008	0.0228
0512	1.8966	0.0384	0.9232	1305	0.6710	0.0135	0.3891
0513	1.4384	0.0292	0.6255	1401	0.2943	0.0058	0.2371
0514	2.6150	0.0529	1.2595	1404	1.1317	0.0226	0.7429
0516	2.4023	0.0488	1.0361	1405	1.1055	0.0222	0.6749
0517	3.4354	0.0694	1.7293	1407	0.7277	0.0145	0.5019
0518	2.2308	0.0455	0.8286	1501	0.9502	0.0192	0.5078
				1507	0.8650	0.0174	0.5029
				1701	1.1273	0.0228	0.5543
				1702	2.8222	0.0579	0.8931
				1703	1.6717	0.0343	0.4759
				1704	1.1273	0.0228	0.5543

Base Rates Effective January 1, ((2015)) 2016				Base Rates Effective January 1, ((2015)) 2016			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
1801	0.6627	0.0133	0.3672	3410	0.2465	0.0049	0.1992
1802	1.0992	0.0221	0.6121	3411	0.7386	0.0149	0.3867
2002	1.2049	0.0242	0.7107	3412	0.9361	0.0190	0.4405
2004	0.9633	0.0193	0.6142	3414	1.0129	0.0203	0.5866
2007	0.8667	0.0173	0.5926	3415	1.2005	0.0242	0.6257
2008	0.5162	0.0103	0.3261	3501	1.4750	0.0296	0.8497
2009	0.4423	0.0088	0.3313	3503	0.3826	0.0075	0.3476
2101	0.9068	0.0180	0.6744	3506	1.3845	0.0281	0.6286
2102	0.9256	0.0185	0.5697	3509	0.4981	0.0099	0.3739
2104	0.3427	0.0066	0.3751	3510	0.4665	0.0093	0.3304
2105	0.9228	0.0185	0.5592	3511	0.9024	0.0181	0.5466
2106	0.6403	0.0127	0.4550	3512	0.4818	0.0095	0.3713
2201	0.3289	0.0065	0.2409	3513	0.7560	0.0150	0.5808
2202	1.0782	0.0217	0.6191	3602	0.1384	0.0028	0.0968
2203	0.6236	0.0124	0.4645	3603	0.6616	0.0131	0.4893
2204	0.3289	0.0065	0.2409	3604	0.9508	0.0188	0.7323
2401	0.6637	0.0134	0.3285	3605	0.7805	0.0157	0.4304
2903	0.9076	0.0180	0.6412	3701	0.3601	0.0072	0.2233
2904	1.0245	0.0206	0.5807	3702	0.6353	0.0127	0.4192
2905	0.8039	0.0160	0.5583	3708	0.9213	0.0185	0.5421
2906	0.4948	0.0098	0.3726	3802	0.2959	0.0059	0.2097
2907	0.6799	0.0136	0.4543	3808	0.6347	0.0128	0.3117
2908	1.5794	0.0315	1.0516	3901	0.1773	0.0035	0.1676
2909	0.5386	0.0107	0.3870	3902	0.5460	0.0108	0.4366
3101	1.0968	0.0220	0.6298	3903	1.4027	0.0277	1.1271
3102	0.3601	0.0072	0.2233	3905	0.1625	0.0032	0.1581
3103	0.7151	0.0144	0.4143	3906	0.5929	0.0117	0.4668
3104	0.9597	0.0193	0.5216	3909	0.4114	0.0081	0.3228
3105	1.0365	0.0207	0.6748	4101	0.4679	0.0094	0.2775
3303	0.6040	0.0121	0.3769	4103	0.7501	0.0150	0.4962
3304	0.6596	0.0130	0.5423	4107	0.2366	0.0047	0.1583
3309	0.5892	0.0118	0.3487	4108	0.2383	0.0047	0.1677
3402	0.6770	0.0136	0.3957	4109	0.2730	0.0054	0.1802
3403	0.2871	0.0058	0.1663	4201	1.0388	0.0211	0.4324
3404	0.6184	0.0123	0.4111	4301	0.8841	0.0175	0.6615
3405	0.3951	0.0079	0.2575	4302	1.0564	0.0211	0.6959
3406	0.3509	0.0069	0.2696	4304	1.1883	0.0234	0.9595
3407	1.1042	0.0223	0.5365	4305	1.7913	0.0363	0.8040
3408	0.3116	0.0062	0.2046	4401	0.5586	0.0111	0.4185
3409	0.1965	0.0039	0.1474	4402	1.0399	0.0208	0.6629

Base Rates Effective January 1, ((2015)) 2016				Base Rates Effective January 1, ((2015)) 2016			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
4404	0.6907	0.0138	0.4766	5109	0.9192	0.0186	0.4367
4501	0.2384	0.0047	0.1833	5201	0.5319	0.0107	0.3074
4502	0.0650	0.0013	0.0453	5204	1.5628	0.0316	0.7565
4504	0.1435	0.0028	0.1226	5206	0.5884	0.0119	0.3178
4802	0.4054	0.0080	0.3294	5207	0.1889	0.0037	0.1661
4803	0.3527	0.0068	0.3657	5208	1.0122	0.0202	0.6520
4804	0.6336	0.0125	0.5156	5209	1.0132	0.0204	0.5633
4805	0.4529	0.0090	0.3549	5300	0.1653	0.0033	0.1058
4806	0.0879	0.0017	0.0835	5301	0.0442	0.0009	0.0318
4808	0.6160	0.0123	0.4317	5302	0.0188	0.0004	0.0112
4809	0.4027	0.0079	0.3409	5305	0.0668	0.0013	0.0530
4810	0.1853	0.0036	0.1845	5306	0.0591	0.0012	0.0463
4811	0.4332	0.0085	0.3928	5307	1.0995	0.0222	0.5502
4812	0.5035	0.0100	0.3898	5308	0.1258	0.0025	0.0911
4813	0.2169	0.0043	0.1927	6103	0.1054	0.0021	0.1016
4814	0.1353	0.0026	0.1703	6104	0.6277	0.0125	0.4125
4815	0.2507	0.0047	0.3545	6105	0.5760	0.0116	0.3122
4816	0.4039	0.0077	0.4740	6107	0.1634	0.0032	0.1711
4900	0.2797	0.0057	0.1162	6108	0.5207	0.0103	0.4330
4901	0.0724	0.0015	0.0389	6109	0.1487	0.0030	0.0913
4902	0.1743	0.0035	0.1071	6110	0.7949	0.0158	0.5359
4903	0.2277	0.0045	0.1527	6120	0.4434	0.0089	0.2452
4904	0.0281	0.0006	0.0218	6121	0.5041	0.0101	0.2830
4905	0.4505	0.0088	0.4468	6201	0.4562	0.0092	0.2612
4906	0.1522	0.0031	0.0915	6202	0.9750	0.0195	0.6122
4907	0.0742	0.0015	0.0589	6203	0.1182	0.0023	0.1365
4908	0.1240	0.0024	0.1199	6204	0.1733	0.0034	0.1437
4909	0.0504	0.0010	0.0602	6205	0.2870	0.0057	0.2268
4910	0.5971	0.0119	0.3839	6206	0.2922	0.0058	0.2210
4911	0.0983	0.0020	0.0581	6207	1.6435	0.0324	1.3634
5001	12.9188	0.2630	5.2722	6208	0.2948	0.0057	0.2863
5002	0.8790	0.0177	0.4977	6209	0.3633	0.0071	0.3047
5003	3.3490	0.0684	1.2312	6301	0.2028	0.0041	0.0931
5004	1.0888	0.0218	0.6973	6303	0.0996	0.0020	0.0641
5005	1.1597	0.0234	0.6005	6304	0.3759	0.0074	0.3381
5006	2.2718	0.0463	0.8879	6305	0.1258	0.0025	0.1104
5101	1.5159	0.0307	0.7230	6306	0.4666	0.0093	0.2920
5103	1.0396	0.0206	0.8081	6308	0.0917	0.0018	0.0549
5106	1.0396	0.0206	0.8081	6309	0.2636	0.0052	0.1934
5108	1.0925	0.0218	0.7466	6402	0.3406	0.0067	0.2768

Base Rates Effective January 1, ((2015)) 2016				Base Rates Effective January 1, ((2015)) 2016			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
6403	0.2126	0.0042	0.1837	6904	1.1549	0.0234	0.5157
6404	0.3390	0.0067	0.2874	6905	0.7918	0.0160	0.4109
6405	0.7659	0.0154	0.4340	6906	0.0000	0.0000	0.4109
6406	0.1481	0.0029	0.1300	6907	1.5474	0.0309	1.0380
6407	0.3160	0.0062	0.2464	6908	0.5546	0.0111	0.3555
6408	0.6663	0.0133	0.4318	6909	0.1602	0.0032	0.1153
6409	0.9823	0.0198	0.5435	7100	0.0447	0.0009	0.0307
6410	0.4306	0.0086	0.2656	7101	0.0366	0.0007	0.0210
6501	0.1851	0.0037	0.1289	7102	4.1362	0.0783	5.4669
6502	0.0432	0.0009	0.0330	7103	1.1364	0.0230	0.5708
6503	0.1108	0.0022	0.0579	7104	0.0415	0.0008	0.0305
6504	0.4099	0.0080	0.3966	7105	0.0304	0.0006	0.0206
6505	0.1573	0.0030	0.1685	7106	0.3350	0.0066	0.2732
6506	0.1582	0.0031	0.1239	7107	0.3010	0.0059	0.2950
6509	0.3992	0.0078	0.3608	7108	0.2235	0.0044	0.1974
6510	0.6506	0.0132	0.3146	7109	0.1815	0.0036	0.1421
6511	0.4676	0.0092	0.3698	7110	0.4976	0.0101	0.2468
6512	0.1702	0.0034	0.1012	7111	0.7248	0.0147	0.3026
6601	0.2864	0.0057	0.2002	7112	0.9636	0.0191	0.7392
6602	0.7030	0.0139	0.5652	7113	0.5106	0.0101	0.4115
6603	0.4175	0.0083	0.2739	7114	0.8204	0.0160	0.7485
6604	0.1086	0.0021	0.0838	7115	0.5787	0.0114	0.5017
6605	0.4555	0.0091	0.3107	7116	0.8247	0.0164	0.5721
6607	0.1942	0.0039	0.1442	7117	1.5439	0.0307	1.0919
6608	1.0169	0.0208	0.3371	7118	2.0467	0.0408	1.4058
6620	4.8047	0.0970	2.4654	7119	2.0620	0.0413	1.2721
6704	0.1650	0.0033	0.1210	7120	8.5969	0.1721	5.3516
6705	0.9752	0.0190	0.9579	7121	8.0364	0.1608	5.0453
6706	0.3711	0.0073	0.3120	7122	0.5192	0.0103	0.3973
6707	6.6439	0.1299	6.1101	7200	2.4952	0.0506	1.1701
6708	9.4806	0.1813	11.2852	7201	2.7479	0.0556	1.3336
6709	0.3431	0.0068	0.2765	7202	0.0425	0.0009	0.0241
6801	1.1585	0.0235	0.5295	7203	0.1350	0.0026	0.1809
6802	0.8104	0.0161	0.5973	7204	0.0000	0.0000	0.0000
6803	1.2017	0.0246	0.3939	7205	0.0000	0.0000	0.0000
6804	0.4155	0.0082	0.3109	7301	0.6035	0.0120	0.4326
6809	6.8589	0.1339	6.4657	7302	1.2264	0.0244	0.8670
6901	0.0000	0.0000	0.0725	7307	0.5526	0.0109	0.4282
6902	1.5104	0.0308	0.6087	7308	0.4322	0.0085	0.3812
6903	10.9605	0.2227	4.7326	7309	0.3261	0.0064	0.3018

Base Rates Effective January 1, ((2015)) 2016				Base Rates Effective January 1, ((2015)) 2016			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
7400	2.7479	0.0556	1.3336))	0603	1.1868	0.0177	0.4674
0101	2.0953	0.0313	0.7848	0604	1.5799	0.0232	0.9516
0103	2.5091	0.0372	1.1715	0606	0.8550	0.0125	0.5151
0104	1.7058	0.0254	0.7182	0607	1.1467	0.0169	0.5962
0105	1.9607	0.0288	1.1243	0608	0.5122	0.0076	0.2528
0106	2.7316	0.0404	1.3963	0701	3.1705	0.0480	0.7342
0107	1.6056	0.0239	0.6786	0803	0.8089	0.0119	0.4380
0108	1.7058	0.0254	0.7182	0901	2.2738	0.0340	0.8114
0112	1.2755	0.0189	0.5841	1002	1.3452	0.0199	0.6940
0201	2.6694	0.0400	0.9426	1003	1.1189	0.0165	0.5846
0202	5.1011	0.0760	2.1295	1004	0.7864	0.0117	0.3478
0210	1.6461	0.0246	0.6387	1005	13.5684	0.2023	5.5618
0212	2.1651	0.0323	0.9047	1006	0.1945	0.0029	0.1186
0214	2.2491	0.0336	0.9031	1007	0.4946	0.0074	0.1988
0217	2.2437	0.0334	0.9816	1101	1.2577	0.0186	0.6337
0219	1.6196	0.0242	0.6435	1102	2.3381	0.0348	0.9722
0301	1.1760	0.0172	0.7435	1103	1.8321	0.0272	0.8601
0302	4.0562	0.0609	1.3367	1104	0.9360	0.0137	0.6012
0303	3.0860	0.0461	1.2166	1105	1.2527	0.0185	0.6279
0306	1.6051	0.0240	0.6195	1106	0.3896	0.0056	0.2978
0307	1.5019	0.0224	0.6486	1108	0.8053	0.0118	0.4764
0308	0.8026	0.0116	0.5934	1109	2.0578	0.0302	1.2149
0403	2.7376	0.0406	1.3012	1301	0.8617	0.0128	0.3728
0502	2.2162	0.0331	0.8699	1303	0.3693	0.0054	0.2084
0504	2.7990	0.0413	1.5130	1304	0.0397	0.0006	0.0214
0507	4.7291	0.0695	2.7815	1305	0.7025	0.0104	0.3824
0508	2.7944	0.0419	0.9108	1401	0.3124	0.0045	0.2583
0509	1.9037	0.0285	0.6854	1404	1.1051	0.0162	0.7059
0510	3.4088	0.0504	1.7479	1405	1.2095	0.0178	0.7006
0511	2.6316	0.0392	1.1009	1407	0.7721	0.0113	0.4994
0512	1.9045	0.0282	0.9236	1501	0.9933	0.0147	0.5112
0513	1.4585	0.0217	0.6383	1507	0.8761	0.0129	0.5109
0514	2.5593	0.0380	1.2124	1701	1.1621	0.0173	0.5365
0516	2.3594	0.0351	1.0193	1702	2.8421	0.0427	0.8830
0517	3.3980	0.0503	1.6781	1703	1.6898	0.0254	0.4850
0518	2.2738	0.0340	0.8114	1704	1.1621	0.0173	0.5365
0519	2.5438	0.0378	1.1504	1801	0.6859	0.0101	0.3588
0521	0.7784	0.0115	0.4142	1802	1.1261	0.0166	0.6063
0601	0.8239	0.0122	0.3840	2002	1.2579	0.0185	0.6931
0602	1.2313	0.0185	0.3969	2004	0.9284	0.0136	0.5935

Base Rates Effective January 1, ((2015)) 2016				Base Rates Effective January 1, ((2015)) 2016			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>2007</u>	<u>0.9561</u>	<u>0.0140</u>	<u>0.6427</u>	<u>3415</u>	<u>1.2304</u>	<u>0.0182</u>	<u>0.6147</u>
<u>2008</u>	<u>0.5275</u>	<u>0.0077</u>	<u>0.3242</u>	<u>3501</u>	<u>1.5252</u>	<u>0.0225</u>	<u>0.8591</u>
<u>2009</u>	<u>0.4400</u>	<u>0.0064</u>	<u>0.3286</u>	<u>3503</u>	<u>0.3986</u>	<u>0.0057</u>	<u>0.3339</u>
<u>2101</u>	<u>0.8950</u>	<u>0.0130</u>	<u>0.6469</u>	<u>3506</u>	<u>1.3645</u>	<u>0.0203</u>	<u>0.6099</u>
<u>2102</u>	<u>0.9786</u>	<u>0.0144</u>	<u>0.5758</u>	<u>3509</u>	<u>0.5338</u>	<u>0.0078</u>	<u>0.3830</u>
<u>2104</u>	<u>0.3564</u>	<u>0.0050</u>	<u>0.3895</u>	<u>3510</u>	<u>0.4558</u>	<u>0.0066</u>	<u>0.3286</u>
<u>2105</u>	<u>0.9420</u>	<u>0.0138</u>	<u>0.5638</u>	<u>3511</u>	<u>0.9481</u>	<u>0.0139</u>	<u>0.5815</u>
<u>2106</u>	<u>0.6301</u>	<u>0.0092</u>	<u>0.4334</u>	<u>3512</u>	<u>0.5083</u>	<u>0.0074</u>	<u>0.3612</u>
<u>2201</u>	<u>0.3517</u>	<u>0.0051</u>	<u>0.2471</u>	<u>3513</u>	<u>0.7906</u>	<u>0.0115</u>	<u>0.5914</u>
<u>2202</u>	<u>1.0962</u>	<u>0.0162</u>	<u>0.5981</u>	<u>3602</u>	<u>0.1330</u>	<u>0.0019</u>	<u>0.0903</u>
<u>2203</u>	<u>0.6481</u>	<u>0.0094</u>	<u>0.4811</u>	<u>3603</u>	<u>0.6969</u>	<u>0.0101</u>	<u>0.5006</u>
<u>2204</u>	<u>0.3517</u>	<u>0.0051</u>	<u>0.2471</u>	<u>3604</u>	<u>0.9507</u>	<u>0.0138</u>	<u>0.7051</u>
<u>2401</u>	<u>0.6261</u>	<u>0.0093</u>	<u>0.3022</u>	<u>3605</u>	<u>0.8017</u>	<u>0.0118</u>	<u>0.4305</u>
<u>2903</u>	<u>0.9674</u>	<u>0.0141</u>	<u>0.6688</u>	<u>3701</u>	<u>0.4036</u>	<u>0.0059</u>	<u>0.2254</u>
<u>2904</u>	<u>1.0196</u>	<u>0.0150</u>	<u>0.5486</u>	<u>3702</u>	<u>0.6520</u>	<u>0.0095</u>	<u>0.4143</u>
<u>2905</u>	<u>0.8026</u>	<u>0.0117</u>	<u>0.5217</u>	<u>3708</u>	<u>0.9935</u>	<u>0.0146</u>	<u>0.5715</u>
<u>2906</u>	<u>0.5260</u>	<u>0.0076</u>	<u>0.3879</u>	<u>3802</u>	<u>0.3038</u>	<u>0.0044</u>	<u>0.2170</u>
<u>2907</u>	<u>0.6905</u>	<u>0.0101</u>	<u>0.4432</u>	<u>3808</u>	<u>0.6381</u>	<u>0.0094</u>	<u>0.3180</u>
<u>2908</u>	<u>1.5534</u>	<u>0.0227</u>	<u>1.0506</u>	<u>3901</u>	<u>0.1681</u>	<u>0.0024</u>	<u>0.1624</u>
<u>2909</u>	<u>0.5593</u>	<u>0.0081</u>	<u>0.3896</u>	<u>3902</u>	<u>0.5792</u>	<u>0.0084</u>	<u>0.4424</u>
<u>3101</u>	<u>1.1105</u>	<u>0.0163</u>	<u>0.6270</u>	<u>3903</u>	<u>1.4429</u>	<u>0.0209</u>	<u>1.1278</u>
<u>3102</u>	<u>0.4036</u>	<u>0.0059</u>	<u>0.2254</u>	<u>3905</u>	<u>0.1656</u>	<u>0.0024</u>	<u>0.1574</u>
<u>3103</u>	<u>0.7077</u>	<u>0.0104</u>	<u>0.3985</u>	<u>3906</u>	<u>0.6193</u>	<u>0.0090</u>	<u>0.4719</u>
<u>3104</u>	<u>1.0061</u>	<u>0.0149</u>	<u>0.5322</u>	<u>3909</u>	<u>0.4212</u>	<u>0.0061</u>	<u>0.3310</u>
<u>3105</u>	<u>1.0508</u>	<u>0.0154</u>	<u>0.6807</u>	<u>4101</u>	<u>0.4753</u>	<u>0.0070</u>	<u>0.2703</u>
<u>3303</u>	<u>0.5848</u>	<u>0.0086</u>	<u>0.3522</u>	<u>4103</u>	<u>0.7712</u>	<u>0.0113</u>	<u>0.4903</u>
<u>3304</u>	<u>0.7064</u>	<u>0.0102</u>	<u>0.5671</u>	<u>4107</u>	<u>0.2558</u>	<u>0.0037</u>	<u>0.1638</u>
<u>3309</u>	<u>0.6034</u>	<u>0.0089</u>	<u>0.3610</u>	<u>4108</u>	<u>0.2385</u>	<u>0.0035</u>	<u>0.1626</u>
<u>3402</u>	<u>0.6977</u>	<u>0.0103</u>	<u>0.3938</u>	<u>4109</u>	<u>0.2814</u>	<u>0.0041</u>	<u>0.1861</u>
<u>3403</u>	<u>0.2854</u>	<u>0.0042</u>	<u>0.1579</u>	<u>4201</u>	<u>1.0902</u>	<u>0.0163</u>	<u>0.4413</u>
<u>3404</u>	<u>0.6644</u>	<u>0.0097</u>	<u>0.4327</u>	<u>4301</u>	<u>0.9707</u>	<u>0.0141</u>	<u>0.7096</u>
<u>3405</u>	<u>0.4127</u>	<u>0.0060</u>	<u>0.2602</u>	<u>4302</u>	<u>1.1607</u>	<u>0.0169</u>	<u>0.7700</u>
<u>3406</u>	<u>0.3667</u>	<u>0.0053</u>	<u>0.2692</u>	<u>4304</u>	<u>1.2214</u>	<u>0.0176</u>	<u>0.9657</u>
<u>3407</u>	<u>1.1291</u>	<u>0.0168</u>	<u>0.5071</u>	<u>4305</u>	<u>1.9366</u>	<u>0.0288</u>	<u>0.8278</u>
<u>3408</u>	<u>0.3120</u>	<u>0.0046</u>	<u>0.2029</u>	<u>4401</u>	<u>0.5786</u>	<u>0.0084</u>	<u>0.4264</u>
<u>3409</u>	<u>0.2023</u>	<u>0.0029</u>	<u>0.1483</u>	<u>4402</u>	<u>1.0447</u>	<u>0.0153</u>	<u>0.6459</u>
<u>3410</u>	<u>0.2399</u>	<u>0.0035</u>	<u>0.1897</u>	<u>4404</u>	<u>0.6870</u>	<u>0.0100</u>	<u>0.4524</u>
<u>3411</u>	<u>0.7320</u>	<u>0.0108</u>	<u>0.3794</u>	<u>4501</u>	<u>0.2368</u>	<u>0.0034</u>	<u>0.1771</u>
<u>3412</u>	<u>0.9619</u>	<u>0.0143</u>	<u>0.4285</u>	<u>4502</u>	<u>0.0718</u>	<u>0.0010</u>	<u>0.0482</u>
<u>3414</u>	<u>1.0814</u>	<u>0.0159</u>	<u>0.6117</u>	<u>4504</u>	<u>0.1420</u>	<u>0.0020</u>	<u>0.1194</u>

Base Rates Effective January 1, ((2015)) 2016				Base Rates Effective January 1, ((2015)) 2016			
Class	Accident Fund	Stay at Work	Medical Aid Fund	Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>4802</u>	<u>0.4256</u>	<u>0.0061</u>	<u>0.3364</u>	<u>5207</u>	<u>0.1970</u>	<u>0.0028</u>	<u>0.1706</u>
<u>4803</u>	<u>0.3786</u>	<u>0.0054</u>	<u>0.3855</u>	<u>5208</u>	<u>1.0786</u>	<u>0.0158</u>	<u>0.6465</u>
<u>4804</u>	<u>0.6443</u>	<u>0.0093</u>	<u>0.5351</u>	<u>5209</u>	<u>0.9984</u>	<u>0.0147</u>	<u>0.5407</u>
<u>4805</u>	<u>0.4837</u>	<u>0.0070</u>	<u>0.3697</u>	<u>5300</u>	<u>0.1443</u>	<u>0.0021</u>	<u>0.0970</u>
<u>4806</u>	<u>0.0980</u>	<u>0.0014</u>	<u>0.0965</u>	<u>5301</u>	<u>0.0481</u>	<u>0.0007</u>	<u>0.0315</u>
<u>4808</u>	<u>0.6372</u>	<u>0.0093</u>	<u>0.4162</u>	<u>5302</u>	<u>0.0168</u>	<u>0.0002</u>	<u>0.0097</u>
<u>4809</u>	<u>0.4239</u>	<u>0.0061</u>	<u>0.3599</u>	<u>5305</u>	<u>0.0694</u>	<u>0.0010</u>	<u>0.0524</u>
<u>4810</u>	<u>0.2165</u>	<u>0.0031</u>	<u>0.2106</u>	<u>5306</u>	<u>0.0601</u>	<u>0.0009</u>	<u>0.0446</u>
<u>4811</u>	<u>0.4485</u>	<u>0.0064</u>	<u>0.4212</u>	<u>5307</u>	<u>1.1204</u>	<u>0.0166</u>	<u>0.5344</u>
<u>4812</u>	<u>0.5259</u>	<u>0.0076</u>	<u>0.3982</u>	<u>5308</u>	<u>0.1321</u>	<u>0.0019</u>	<u>0.0922</u>
<u>4813</u>	<u>0.2317</u>	<u>0.0033</u>	<u>0.2085</u>	<u>6103</u>	<u>0.1122</u>	<u>0.0016</u>	<u>0.1042</u>
<u>4814</u>	<u>0.1394</u>	<u>0.0019</u>	<u>0.1705</u>	<u>6104</u>	<u>0.6899</u>	<u>0.0101</u>	<u>0.4125</u>
<u>4815</u>	<u>0.2586</u>	<u>0.0036</u>	<u>0.3547</u>	<u>6105</u>	<u>0.5769</u>	<u>0.0085</u>	<u>0.3154</u>
<u>4816</u>	<u>0.4163</u>	<u>0.0058</u>	<u>0.4743</u>	<u>6107</u>	<u>0.1573</u>	<u>0.0022</u>	<u>0.1646</u>
<u>4900</u>	<u>0.2883</u>	<u>0.0043</u>	<u>0.1145</u>	<u>6108</u>	<u>0.5007</u>	<u>0.0072</u>	<u>0.4077</u>
<u>4901</u>	<u>0.0751</u>	<u>0.0011</u>	<u>0.0363</u>	<u>6109</u>	<u>0.1546</u>	<u>0.0023</u>	<u>0.0905</u>
<u>4902</u>	<u>0.1686</u>	<u>0.0025</u>	<u>0.1057</u>	<u>6110</u>	<u>0.8297</u>	<u>0.0121</u>	<u>0.5324</u>
<u>4903</u>	<u>0.2406</u>	<u>0.0035</u>	<u>0.1566</u>	<u>6120</u>	<u>0.4743</u>	<u>0.0070</u>	<u>0.2540</u>
<u>4904</u>	<u>0.0281</u>	<u>0.0004</u>	<u>0.0212</u>	<u>6121</u>	<u>0.5252</u>	<u>0.0077</u>	<u>0.2827</u>
<u>4905</u>	<u>0.4850</u>	<u>0.0069</u>	<u>0.4809</u>	<u>6201</u>	<u>0.4551</u>	<u>0.0067</u>	<u>0.2565</u>
<u>4906</u>	<u>0.1581</u>	<u>0.0023</u>	<u>0.0932</u>	<u>6202</u>	<u>1.0257</u>	<u>0.0151</u>	<u>0.6093</u>
<u>4907</u>	<u>0.0788</u>	<u>0.0011</u>	<u>0.0645</u>	<u>6203</u>	<u>0.1297</u>	<u>0.0018</u>	<u>0.1456</u>
<u>4908</u>	<u>0.1292</u>	<u>0.0018</u>	<u>0.1180</u>	<u>6204</u>	<u>0.1719</u>	<u>0.0025</u>	<u>0.1380</u>
<u>4909</u>	<u>0.0519</u>	<u>0.0007</u>	<u>0.0594</u>	<u>6205</u>	<u>0.2757</u>	<u>0.0040</u>	<u>0.2157</u>
<u>4910</u>	<u>0.6322</u>	<u>0.0093</u>	<u>0.3869</u>	<u>6206</u>	<u>0.2743</u>	<u>0.0040</u>	<u>0.2067</u>
<u>4911</u>	<u>0.1013</u>	<u>0.0015</u>	<u>0.0566</u>	<u>6207</u>	<u>1.7120</u>	<u>0.0248</u>	<u>1.3212</u>
<u>5001</u>	<u>13.1762</u>	<u>0.1715</u>	<u>5.1261</u>	<u>6208</u>	<u>0.3102</u>	<u>0.0044</u>	<u>0.2801</u>
<u>5002</u>	<u>0.9029</u>	<u>0.0133</u>	<u>0.4978</u>	<u>6209</u>	<u>0.3796</u>	<u>0.0055</u>	<u>0.3175</u>
<u>5003</u>	<u>3.4011</u>	<u>0.0509</u>	<u>1.2099</u>	<u>6301</u>	<u>0.2005</u>	<u>0.0030</u>	<u>0.0911</u>
<u>5004</u>	<u>1.1077</u>	<u>0.0162</u>	<u>0.7035</u>	<u>6303</u>	<u>0.1002</u>	<u>0.0015</u>	<u>0.0591</u>
<u>5005</u>	<u>1.1768</u>	<u>0.0174</u>	<u>0.5883</u>	<u>6304</u>	<u>0.3680</u>	<u>0.0053</u>	<u>0.3211</u>
<u>5006</u>	<u>2.3251</u>	<u>0.0348</u>	<u>0.8760</u>	<u>6305</u>	<u>0.1302</u>	<u>0.0019</u>	<u>0.1124</u>
<u>5101</u>	<u>1.5376</u>	<u>0.0228</u>	<u>0.7039</u>	<u>6306</u>	<u>0.4757</u>	<u>0.0070</u>	<u>0.2957</u>
<u>5103</u>	<u>1.0261</u>	<u>0.0149</u>	<u>0.7813</u>	<u>6308</u>	<u>0.0939</u>	<u>0.0014</u>	<u>0.0547</u>
<u>5106</u>	<u>1.0261</u>	<u>0.0149</u>	<u>0.7813</u>	<u>6309</u>	<u>0.2666</u>	<u>0.0039</u>	<u>0.1891</u>
<u>5108</u>	<u>1.0931</u>	<u>0.0160</u>	<u>0.7252</u>	<u>6402</u>	<u>0.3658</u>	<u>0.0053</u>	<u>0.2839</u>
<u>5109</u>	<u>0.9929</u>	<u>0.0148</u>	<u>0.4324</u>	<u>6403</u>	<u>0.2208</u>	<u>0.0032</u>	<u>0.1851</u>
<u>5201</u>	<u>0.5246</u>	<u>0.0077</u>	<u>0.2903</u>	<u>6404</u>	<u>0.3489</u>	<u>0.0050</u>	<u>0.2956</u>
<u>5204</u>	<u>1.5790</u>	<u>0.0234</u>	<u>0.7280</u>	<u>6405</u>	<u>0.7437</u>	<u>0.0110</u>	<u>0.4179</u>
<u>5206</u>	<u>0.6273</u>	<u>0.0093</u>	<u>0.3160</u>	<u>6406</u>	<u>0.1498</u>	<u>0.0022</u>	<u>0.1295</u>

**Base Rates Effective
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Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>6407</u>	<u>0.3302</u>	<u>0.0048</u>	<u>0.2531</u>
<u>6408</u>	<u>0.7330</u>	<u>0.0107</u>	<u>0.4634</u>
<u>6409</u>	<u>1.0069</u>	<u>0.0149</u>	<u>0.5251</u>
<u>6410</u>	<u>0.4597</u>	<u>0.0068</u>	<u>0.2641</u>
<u>6501</u>	<u>0.1773</u>	<u>0.0026</u>	<u>0.1192</u>
<u>6502</u>	<u>0.0424</u>	<u>0.0006</u>	<u>0.0313</u>
<u>6503</u>	<u>0.1112</u>	<u>0.0016</u>	<u>0.0587</u>
<u>6504</u>	<u>0.4104</u>	<u>0.0059</u>	<u>0.3823</u>
<u>6505</u>	<u>0.1656</u>	<u>0.0023</u>	<u>0.1734</u>
<u>6506</u>	<u>0.1612</u>	<u>0.0023</u>	<u>0.1230</u>
<u>6509</u>	<u>0.3893</u>	<u>0.0056</u>	<u>0.3443</u>
<u>6510</u>	<u>0.7005</u>	<u>0.0104</u>	<u>0.3306</u>
<u>6511</u>	<u>0.4974</u>	<u>0.0072</u>	<u>0.3732</u>
<u>6512</u>	<u>0.1623</u>	<u>0.0024</u>	<u>0.0915</u>
<u>6601</u>	<u>0.2900</u>	<u>0.0042</u>	<u>0.1958</u>
<u>6602</u>	<u>0.7300</u>	<u>0.0105</u>	<u>0.5855</u>
<u>6603</u>	<u>0.4235</u>	<u>0.0062</u>	<u>0.2491</u>
<u>6604</u>	<u>0.1141</u>	<u>0.0017</u>	<u>0.0863</u>
<u>6605</u>	<u>0.4171</u>	<u>0.0061</u>	<u>0.2713</u>
<u>6607</u>	<u>0.1878</u>	<u>0.0027</u>	<u>0.1359</u>
<u>6608</u>	<u>1.0871</u>	<u>0.0163</u>	<u>0.3495</u>
<u>6620</u>	<u>4.8971</u>	<u>0.0724</u>	<u>2.4879</u>
<u>6704</u>	<u>0.1649</u>	<u>0.0024</u>	<u>0.1145</u>
<u>6705</u>	<u>0.9212</u>	<u>0.0131</u>	<u>0.8952</u>
<u>6706</u>	<u>0.3764</u>	<u>0.0054</u>	<u>0.3086</u>
<u>6707</u>	<u>7.7372</u>	<u>0.1105</u>	<u>7.1401</u>
<u>6708</u>	<u>9.8205</u>	<u>0.1374</u>	<u>11.4189</u>
<u>6709</u>	<u>0.3508</u>	<u>0.0051</u>	<u>0.2707</u>
<u>6801</u>	<u>1.2517</u>	<u>0.0186</u>	<u>0.5423</u>
<u>6802</u>	<u>0.8867</u>	<u>0.0129</u>	<u>0.6189</u>
<u>6803</u>	<u>1.1875</u>	<u>0.0179</u>	<u>0.3649</u>
<u>6804</u>	<u>0.4082</u>	<u>0.0059</u>	<u>0.3066</u>
<u>6809</u>	<u>7.1619</u>	<u>0.1021</u>	<u>6.7781</u>
<u>6901</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0724</u>
<u>6902</u>	<u>1.4694</u>	<u>0.0219</u>	<u>0.5913</u>
<u>6903</u>	<u>11.0791</u>	<u>0.1650</u>	<u>4.6682</u>
<u>6904</u>	<u>1.3383</u>	<u>0.0199</u>	<u>0.5571</u>
<u>6905</u>	<u>0.9098</u>	<u>0.0135</u>	<u>0.4361</u>
<u>6906</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.4361</u>
<u>6907</u>	<u>1.5819</u>	<u>0.0232</u>	<u>1.0062</u>

**Base Rates Effective
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Class	Accident Fund	Stay at Work	Medical Aid Fund
<u>6908</u>	<u>0.5471</u>	<u>0.0080</u>	<u>0.3404</u>
<u>6909</u>	<u>0.1667</u>	<u>0.0024</u>	<u>0.1136</u>
<u>7100</u>	<u>0.0461</u>	<u>0.0007</u>	<u>0.0306</u>
<u>7101</u>	<u>0.0392</u>	<u>0.0006</u>	<u>0.0207</u>
<u>7103</u>	<u>1.2067</u>	<u>0.0179</u>	<u>0.5774</u>
<u>7104</u>	<u>0.0415</u>	<u>0.0006</u>	<u>0.0294</u>
<u>7105</u>	<u>0.0286</u>	<u>0.0004</u>	<u>0.0194</u>
<u>7106</u>	<u>0.3237</u>	<u>0.0047</u>	<u>0.2684</u>
<u>7107</u>	<u>0.3161</u>	<u>0.0045</u>	<u>0.3116</u>
<u>7108</u>	<u>0.2288</u>	<u>0.0033</u>	<u>0.1917</u>
<u>7109</u>	<u>0.1747</u>	<u>0.0025</u>	<u>0.1357</u>
<u>7110</u>	<u>0.5087</u>	<u>0.0075</u>	<u>0.2532</u>
<u>7111</u>	<u>0.7520</u>	<u>0.0112</u>	<u>0.3008</u>
<u>7112</u>	<u>1.0311</u>	<u>0.0149</u>	<u>0.7750</u>
<u>7113</u>	<u>0.5300</u>	<u>0.0077</u>	<u>0.4211</u>
<u>7114</u>	<u>0.8922</u>	<u>0.0128</u>	<u>0.7940</u>
<u>7115</u>	<u>0.6259</u>	<u>0.0090</u>	<u>0.5072</u>
<u>7116</u>	<u>0.8205</u>	<u>0.0120</u>	<u>0.5399</u>
<u>7117</u>	<u>1.5763</u>	<u>0.0229</u>	<u>1.1192</u>
<u>7118</u>	<u>2.3664</u>	<u>0.0345</u>	<u>1.5911</u>
<u>7119</u>	<u>2.1305</u>	<u>0.0313</u>	<u>1.2741</u>
<u>7120</u>	<u>8.8198</u>	<u>0.1294</u>	<u>5.3400</u>
<u>7121</u>	<u>8.2248</u>	<u>0.1206</u>	<u>5.0221</u>
<u>7122</u>	<u>0.5097</u>	<u>0.0074</u>	<u>0.3575</u>
<u>7200</u>	<u>2.8311</u>	<u>0.0421</u>	<u>1.2377</u>
<u>7201</u>	<u>2.7347</u>	<u>0.0406</u>	<u>1.2863</u>
<u>7202</u>	<u>0.0442</u>	<u>0.0007</u>	<u>0.0246</u>
<u>7203</u>	<u>0.1393</u>	<u>0.0019</u>	<u>0.1765</u>
<u>7204</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>
<u>7205</u>	<u>0.0000</u>	<u>0.0000</u>	<u>0.0000</u>
<u>7301</u>	<u>0.6403</u>	<u>0.0093</u>	<u>0.4662</u>
<u>7302</u>	<u>1.2874</u>	<u>0.0188</u>	<u>0.8796</u>
<u>7307</u>	<u>0.5846</u>	<u>0.0085</u>	<u>0.4478</u>
<u>7308</u>	<u>0.4049</u>	<u>0.0058</u>	<u>0.3519</u>
<u>7309</u>	<u>0.3367</u>	<u>0.0048</u>	<u>0.2965</u>
<u>7400</u>	<u>3.2558</u>	<u>0.0484</u>	<u>1.4233</u>

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-89502 Industrial insurance accident fund, stay at work, medical aid and supplemental pension rates by class of industry for nonhourly rated classifications. The base rates as set forth below are for classifications whose premium rates are based on units other than hours worked.

Table with 5 columns: Class, Accident Fund, Stay at Work, Medical Aid Fund, Supplemental Pension Fund. Rows include classes like ((0540), 0541, 0550, 0551) and their corresponding rates.

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-89507 Horse racing rates. Horse racing industry industrial insurance accident fund, stay at work fund, medical aid fund, supplemental pension fund and composite rate by class.

Base Rates Effective January 1, ((2015)) 2016

Table with 6 columns: Class, Accident Fund, Stay at Work Fund, Medical Aid Fund, Supplemental Pension Fund, Composite Rate. Rows include classes like ((6618), 6625, 6626, 6627, 6618, 6625, 6626, 6627) and their corresponding rates.

- * This rate is calculated on a percentage of ownership in a horse or horses.
** This rate is calculated per month.
*** This rate is calculated per horse per day.
**** This rate is calculated per day.

Note: These rates are not subject to experience rating or retrospective rating.

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17-920 Assessment for supplemental pension fund. The amount of ((44.8 mils (\$0.0448))) 47.6 mils (\$0.0476) shall be retained by each employer from the earnings of each worker for each hour or fraction thereof the worker is employed.

For the purpose of partially funding the Logger Safety initiative, the ((44.8 mils (\$0.0448))) 47.6 mils (\$0.0476) will be increased by ((2.0 mils (\$0.0020) to 46.8 mils (\$0.0468))) 1.9 mils (\$0.0019) to 49.5 mils (\$0.0495) per hour for each

employer and worker for work reported in the forest products risk classifications: 1002, 1003, 1004, 1005, 2401, 2903, 2904, 2905, 2907, 2909, 5001, 5002, 5003, 5004, 5005, 5006, and 6902. Each of these risk classifications are defined under chapter 296-17A WAC and incorporated here by this reference.

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17B-540 Determining loss incurred for each claim. (1) Calculating the initial loss incurred:

For each of your claims, we will multiply the case incurred loss by the appropriate discounted loss development factors to determine the initial loss incurred.

If you have a fatality, we will use ((two hundred ninety-four)) three hundred seven thousand dollars as the claim's initial incurred loss for the claim, with two hundred ((sixty-six thousand three)) seventy-six thousand six hundred dollars for

accident fund incurred loss and (~~twenty-seven thousand seven~~) thirty thousand four hundred dollars for the medical aid incurred loss, regardless of the case incurred loss, and before recovery factors if applicable.

(2) Applying the single loss occurrence limit:

The initial loss incurred for a claim will be the amount we use as the loss incurred unless the single loss occurrence limit applies.

The single loss occurrence limit applies when the sum of all initial losses incurred for your claims arising out of a single event is greater than your selected single loss occurrence limit. In that case, each claim's initial loss incurred will be its proportionate share of your single loss occurrence limit.

(3) Applying the expected loss ratio factors:

The preliminary loss incurred for a claim will be the amount of the initial loss incurred, after application of the single loss limit, multiplied by the appropriate expected loss ratio factor. The accident fund and medical aid fund portions of each claim will have separate expected loss ratio factors applied.

AMENDATORY SECTION (Amending WSR 14-24-084, filed 12/1/14, effective 1/1/15)

WAC 296-17B-900 Retrospective rating plans standard premium size ranges.

RETROSPECTIVE RATING STANDARD PREMIUM SIZE RANGES

Effective January 1, (~~2015~~) 2016

Size Group Number Standard Premium Range

	From:	To:
1	5,970 -	6,979
2	6,980 -	7,899
3	7,900 -	8,889
4	8,890 -	9,959
5	9,960 -	11,099
6	11,100 -	12,319
7	12,320 -	13,619
8	13,620 -	15,009
9	15,010 -	16,479
10	16,480 -	18,019
11	18,020 -	19,669
12	19,670 -	21,429
13	21,430 -	23,289
14	23,290 -	25,259
15	25,260 -	27,329
16	27,330 -	29,549
17	29,550 -	31,879
18	31,880 -	34,359
19	34,360 -	36,969
20	36,970 -	39,739

Size Group Number

Standard Premium Range

	From:	To:
21	39,740 -	42,699
22	42,700 -	45,829
23	45,830 -	49,139
24	49,140 -	52,679
25	52,680 -	56,429
26	56,430 -	60,419
27	60,420 -	64,669
28	64,670 -	69,189
29	69,190 -	74,009
30	74,010 -	79,149
31	79,150 -	84,659
32	84,660 -	90,549
33	90,550 -	96,879
34	96,880 -	103,599
35	103,600 -	110,899
36	110,900 -	118,799
37	118,800 -	127,399
38	127,400 -	136,399
39	136,400 -	146,399
40	146,400 -	156,999
41	157,000 -	168,399
42	168,400 -	180,699
43	180,700 -	193,899
44	193,900 -	208,499
45	208,500 -	223,999
46	224,000 -	240,899
47	240,900 -	259,299
48	259,300 -	279,499
49	279,500 -	301,599
50	301,600 -	325,799
51	325,800 -	352,499
52	352,500 -	382,299
53	382,300 -	415,499
54	415,500 -	452,499
55	452,500 -	494,099
56	494,100 -	541,399
57	541,400 -	594,999
58	595,000 -	656,699
59	656,700 -	727,799
60	727,800 -	810,799
61	810,800 -	908,499
62	908,500 -	1,024,999

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
	From:	To:		From:	To:
63	1,025,000	1,165,999	31	80.420	86.009
64	1,166,000	1,338,999	32	86.010	91.999
65	1,339,000	1,554,999	33	92.000	98.429
66	1,555,000	1,835,999	34	98.430	105.299
67	1,836,000	2,204,999	35	105.300	112.699
68	2,205,000	2,719,999	36	112.700	120.699
69	2,720,000	3,479,999	37	120.700	129.399
70	3,480,000	4,733,999	38	129.400	138.599
71	4,734,000	7,093,999	39	138.600	148.699
72	7,094,000	12,979,999	40	148.700	159.499
73	12,980,000	33,219,999	41	159.500	171.099
74	33,220,000	and over))	42	171.100	183.599
1	6.070	7.089	43	183.600	196.999
2	7.090	8.029	44	197.000	211.799
3	8.030	9.029	45	211.800	227.599
4	9.030	10.119	46	227.600	244.799
5	10.120	11.279	47	244.800	263.399
6	11.280	12.519	48	263.400	283.999
7	12.520	13.839	49	284.000	306.399
8	13.840	15.249	50	306.400	330.999
9	15.250	16.739	51	331.000	358.099
10	16.740	18.309	52	358.100	388.399
11	18.310	19.979	53	388.400	422.099
12	19.980	21.769	54	422.100	459.699
13	21.770	23.659	55	459.700	501.999
14	23.660	25.659	56	502.000	550.099
15	25.660	27.769	57	550.100	604.499
16	27.770	30.019	58	604.500	667.199
17	30.020	32.389	59	667.200	739.399
18	32.390	34.909	60	739.400	823.799
19	34.910	37.559	61	823.800	922.999
20	37.560	40.379	62	923.000	1,040.999
21	40.380	43.379	63	1,041.000	1,184.999
22	43.380	46.559	64	1,185.000	1,359.999
23	46.560	49.929	65	1,360.000	1,579.999
24	49.930	53.519	66	1,580.000	1,864.999
25	53.520	57.329	67	1,865.000	2,239.999
26	57.330	61.389	68	2,240.000	2,763.999
27	61.390	65.699	69	2,764.000	3,535.999
28	65.700	70.299	70	3,536.000	4,809.999
29	70.300	75.189	71	4,810.000	7,207.999
30	75.190	80.419	72	7,208.000	13,189.999

Size Group Number	Standard Premium Range	
	From:	To:
<u>73</u>	<u>13,190,000</u>	= <u>33,749,999</u>
<u>74</u>	<u>33,750,000</u>	= <u>and over</u>

WSR 15-19-143
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION

[Filed September 22, 2015, 12:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-20-124.

Title of Rule and Other Identifying Information: Updated rules for toll collection and adjudication in Washington state.

Hearing Location(s): Bellevue City Hall, 450 110th Avenue N.E., Bellevue, WA 98004, on November 5, 2015, at 6:00 p.m. - 8:00 p.m.

Date of Intended Adoption: November 5, 2015.

Submit Written Comments to: Craig Stone, 401 2nd Avenue South, Suite 300, Seattle, WA 98104, e-mail GoodToGoTolling@wsdot.wa.gov, fax (206) 464-1189, by October 30, 2015.

Assistance for Persons with Disabilities: Contact Craig Stone by October 30, 2015, at (206) 464-1220.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule is to amend department of transportation regulations to implement RCW 46.61.690 and 46.63.160. Amending WAC 468-305-001 Definitions, 468-305-100 What toll payment methods are available on WSDOT toll facilities?, 468-305-210 What is required for a qualified vehicle to claim an exemption?, 468-305-300 How can I open a Good To Go!™ toll account?, 468-305-320 What are the various statuses that my account could be in?, 468-305-330 How can I get a refund if I close my Good To Go!™ account?, 468-305-340 In what order will my payment be applied to what I owe in toll charges?, 468-305-560 What is the final order? and 468-305-580 How do I find out if I have a lien on my vehicle registration and how do I get it released?; new sections WAC 468-305-105 What can I do to arrange for toll payment before I use a toll facility?, 468-305-125 Is there a way for me to pay the toll after I drive on a toll facility before I get a toll bill?, 468-305-131 What happens when I use a toll facility but do not have an account or I have insufficient funds in my account?, 468-305-133 What should I do once I receive a toll bill in the mail?, 468-305-136 What happens if I do not pay or dispute my toll charge?, 468-305-150 What can I do once I received a notice of civil penalty?, 468-305-152 What can I do if I dispute my tolls, fees and/or civil penalty?, 468-305-160 What can I do if I want to pay the tolls but dispute a fee or civil penalty?, 468-305-526 What happens once my dispute is received?, 468-305-527 What happens if I disagree with the outcome of my dispute?, 468-305-528 What happens if I request an in-person hearing? and 468-305-529 How will I be notified of the hearing decision?; and

repealing WAC 468-305-010 Who collects the toll charges on WSDOT toll roads and bridges?, 468-305-015 What is "dynamic toll pricing"?, 468-305-020 What is "variable toll pricing"?, 468-305-030 What is the State Route 167 high-occupancy toll (HOT) lanes pilot project?, 468-305-110 Why should I use a Good To Go!™ Pass?, 468-305-120 What is a photo toll?, 468-305-122 What is a Pay By Plate?, 468-305-124 What is a Customer-Initiated Payment?, 468-305-130 What is a Pay By Mail toll bill?, 468-305-132 What information will be included in a Pay By Mail toll bill?, 468-305-135 What happens if I don't pay my Pay By Mail toll bill?, 468-305-140 How do I dispute a toll charge?, 468-305-302 Do I need to establish a separate Good To Go!™ account for each Good To Go!™ toll road or bridge that I use?, 468-305-310 What are the different types of Good To Go!™ toll accounts available and what information is required for each?, 468-305-420 What administrative services are provided to WSDOT toll Good To Go!™ account customers without charge?, 468-305-500 What is a toll violation?, 468-305-502 What is a civil penalty?, 468-305-505 What is a notice of civil penalty (NOCP)?, 468-305-510 How do I pay a NOCP?, 468-305-515 How can I contest or dispute a notice of civil penalty?, 468-305-520 How do I submit a written dispute and waiver of hearing?, 468-305-525 Who reviews the Written Dispute and Waiver of Hearing Form?, 468-305-530 How do I request an in-person administrative hearing?, 468-305-550 What is the burden of proof at the hearing or for the written dispute and waiver of hearing?, 468-305-562 Can I appeal a final order? and 468-305-572 Will interest be charged if an NOCP is not paid?

Reasons Supporting Proposal: The proposed changes are necessary to implement changes to the customer service program and add I-405 express toll lanes to the toll collection program.

Statutory Authority for Adoption: RCW 47.01.101(5), 46.63.160.

Statute Being Implemented: RCW 46.61.690, 46.63.160, 47.56.795.

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

Name of Proponent: WSDOT, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Craig Stone, Seattle, Washington, (206) 464-1220.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules apply to all vehicles using state toll facilities and do not have a disparate impact to "business in an industry" as described in RCW 19.85.030.

A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to subsection (5) of RCW 34.05.328, RCW 34.05.328 does not apply to the department of transportation and it is not required to develop a cost-benefit analysis.

September 22, 2015
 Craig J. Stone
 Assistant Secretary
 Toll Division

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-001 Definitions. The following terms and acronyms shall have the meanings set forth as below.

"Active account" means an open *Good To Go!*TM toll account (~~(to which)~~) with a positive balance sufficient to cover tolls and fees to which may be recorded by the customer service center system.

"Administrative fee" means the fee imposed by WSDOT for toll collection processing and other activities as set forth in chapter 468-270 WAC.

"Administrative hearing" means an in-person or written hearing before an administrative law judge to contest (~~(a notice of civil penalty (NOCP))~~) WSDOT's written decision in response to a notice of dispute regarding a notice of civil penalty.

"Administrative law judge" means a judge provided by the office of administrative hearings authorized to conduct administrative hearings.

"Automatic replenishment" means the addition of money to (~~(a)~~) an active toll account using a customers' pre-designated payment method according to the *Good To Go!*TM terms and conditions.

"Branded debit card" means a debit card that can be used as a credit card.

"Civil penalty" means the penalty assessed for (~~(a toll violation)~~) any unpaid tolls.

"Closed account" means a toll account that has been closed.

"Commercial account" means a uniquely identifiable type of account for a toll customer who requests more than six Passes for their account.

"Commission" means the transportation commission appointed by the governor of the state of Washington. The commission is responsible for setting toll rates, fees and schedules.

~~("Customer initiated payment" means the method used to pay a photo toll when there is no regular toll account and the customer pays the photo toll no later than three days after the toll transaction.)~~

"Customer service center (CSC)" means the place that customers can contact by phone, mail, in person, fax or the internet to open and manage a toll account, and receive services regarding their account and information about state toll facilities.

~~("Day" means that time period reckoned from midnight to midnight.)~~

"Department" means the Washington state department of transportation (WSDOT).

"Department of licensing (DOL)" means the agency that maintains vehicle registration information.

"Dishonored check" means any check returned to WSDOT by a financial institution for any reason (~~(a)~~) including nonacceptance, nonpayment, nonsufficient funds or stop payment, unless a justifiable stop payment order exists.

"Dishonored credit card transaction" means a credit card transaction that is not approved by the entity that issued the credit card.

"Dynamic toll pricing" means varying the toll rate charged to toll customers based upon live traffic conditions to maintain specific performance standards of traffic management.

"Eligible toll facility (toll facility)" means any portion(s) of the state highway system upon which tolling has been specifically identified by the legislature including, but not limited to, transportation corridors; bridges; crossings; interchanges; on-ramps; off-ramps; approaches; bi-state facilities; and interconnections between highways.

"Express toll lanes" means one or more highway lanes that can be used by authorized high-occupancy vehicles, and by toll-paying vehicles, where toll rates are set to maintain travel speed and reliability.

"Final order" means the decision provided by the administrative law judge (ALJ) in response to an administrative hearing (~~(to contest an NOCP or written dispute and waiver of hearing)~~).

"Flex pass" means the *Good To Go!*TM Pass used to declare status to qualify as a toll-free carpool as defined by the commission.

"Good To Go!TM" means the name of the department's toll collection system and is a registered trademark.

"Good To Go!TM customer" means a toll customer who participates in the department's *Good To Go!*TM tolling program.

"Government agency transponder account" means a uniquely identifiable type of account for a public agency.

"Hearing Request Form" means the form provided with the initial order which outlines the process for an individual to request a hearing to dispute the initial order given by the department in response to a notice of dispute.

"High occupancy vehicle (HOV)" means a bus, van-pool or a carpool vehicle with minimum occupancy requirements depending upon the posted roadway HOV signage and as further described in WAC 468-510-010 and RCW 46.74.010.

"High-occupancy toll lanes (HOT lanes)" means one or more lanes of a highway that charges tolls as a means of regulating access to or the use of the lanes in order to maintain travel speed and reliability. HOT lane supporting facilities include, but are not limited to, approaches, enforcement areas, improvements, buildings, and equipment as defined in RCW 47.56.401 and 47.56.403.

"Inactive account" means a toll account that has had no toll transaction activity during a predefined period of time as defined by the *Good To Go!*TM terms and conditions.

"Initial order" means the written decision provided by the department or its designee in response to a notice of dispute.

"Insufficient funds account" means a toll account with a balance less than the single toll rate or fee at the time the customer's transaction is processed.

"Nonsufficient funds" means a dishonored check presented to WSDOT in payment of any toll transaction.

"Notice of civil penalty (NOCP)" means the notice that is sent to notify the registered vehicle owner of a toll violation for failure to pay a toll by the toll payment due date, and for which a civil penalty is assessed.

"Notice of dishonored credit card transaction" means a transaction authorized by a toll customer that is not honored by the financial institution for any reason except for the existence of a stop payment order.

"Notice of dispute" means a customer's contact with the department, by phone or in writing, to dispute a fee and/or notice of civil penalty.

"Notice of nonsufficient funds (NSF)" means the notice sent to a toll customer who presented a nonsufficient funds check to WSDOT in payment of any toll transaction or fee. This notice will be mailed to the toll customer at the address noted on the check returned from the financial institution.

"Pass (Good To Go!™ Pass)" means the transponder device used on WSDOT toll facilities.

"Pass toll transaction" means a toll transaction that has been posted in the customer service center system based on a pass number.

"Pay By Mail" means the method used to pay a photo toll when a toll bill is mailed to the vehicle's registered owner.

"Pay By Plate" means the method used to pay a photo toll by a customer who has a toll account through the use of a photo toll system.

"Payment transaction" means a record of activity created by the customer service center as a result of a customer payment.

~~("Person" means an individual, firm, partnership, corporation, association, or public agency.)~~

"Photo toll" means a charge associated with a particular vehicle that is identified by its license plate and includes Pay By Mail, Pay By Plate and ~~((Customer-Initiated Payment))~~ Short Term Account.

"Photo toll system" means a camera-based imaging system that uses digital video or still image formats to record license plate images of vehicles using toll lanes for the purpose of collecting photo tolls.

"RCW" means the Revised Code of Washington.

"Registered toll account" means a toll account that contains customer contact information.

"Short Term Account" means the method used to pay a photo toll when there is no regular toll account and the customer pays the photo toll no later than three days after the toll transaction.

"State" means the state of Washington.

"Statewide tolling program" means the single, integrated tolling operations used by all eligible state toll facilities and includes both toll collection and toll enforcement processes.

"Tacoma Narrows Bridge" means the toll facility located on SR 16 in Pierce County, Washington.

"Toll" means the charge for the use of a state toll facility that may be paid by *Good To Go!*™ Pass, Pay By Plate (or a registered license plate account), ~~((Customer-Initiated Payment))~~ Short Term Account, Pay By Mail, or cash (where available).

"Toll account (Good To Go!™ toll account)" means an account that is linked to a Pass or license plate, or both, in order to pay a toll by automatic debit.

"Toll bill (Pay by Mail toll bill)" means a bill that is sent to the registered owner of a vehicle which has incurred a photo toll. A toll bill will state the ~~((total))~~ amount due including photo tolls at the Pay By Mail rate and all associated ~~((administrative))~~ fees.

"Toll collection system (TCS)" means any system that creates a toll transaction and includes both electronic and photo toll collection systems, and cash (where available).

"Toll customer" means anyone who passes through a toll transportation facility.

"Toll enforcement office" means the division within WSDOT responsible for toll enforcement activities associated with the notices of civil penalty (NOCPs) as well as the written disputes and administrative hearings.

"Toll enforcement officer" means any person authorized by WSDOT to review and certify notices of civil penalty (NOCP).

"Toll facility" means a toll transportation facility.

"Toll payment due date" means the date when a toll bill must be paid to avoid a ~~((toll violation and))~~ civil penalty. The toll payment due date is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

"Toll transaction" means a record of activity created by the toll collection system as a result of a vehicle traveling through a tolling point.

"Toll violation" means the violation of statutes requiring that a toll be paid by the toll payment due date which is eighty days from the toll transaction date.

"Transponder disabling device (shield)" means an authorized WSDOT device that is used to render inoperative the radio transmission of the vehicle identification code from a transponder to a roadside transponder reader.

"Transponder (Good To Go!™ Pass)" means a device attached to a toll customer's vehicle that automatically identifies the toll customer's vehicle as it passes through the toll facility.

~~("Transponder toll transaction" means a toll transaction has posted in the customer service center system based on a transponder number.)~~

"Unregistered toll account" means a uniquely identifiable type of account that does not contain customer name, address, or vehicle information and requires the use of a pass ~~((transponder))~~ and manual replenishment.

"Variable toll pricing" means a method of varying a toll rate by time of day in order to maximize the performance of the highway facility being tolled.

~~("Written dispute and waiver of hearing" means a completed form containing a written statement disputing a notice of civil penalty that is reviewed and decided by an administrative law judge. There is no appeal of a decision in response to a written dispute.)~~

"WSDOT" means Washington state department of transportation, any division, section, office, unit or other entity within Washington state department of transportation, and any of the officers or other officials lawfully representing Washington state department of transportation.

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-100 What toll payment methods are available on WSDOT toll facilities? The following toll payment methods are available on WSDOT toll facilities:

(1) **Payment by pass:** This toll payment option uses a *Good To Go!*TM Pass (transponder device) to debit funds from an associated valid toll account.

((Note: This is the ONLY payment method available on the SR 167 HOT lanes pilot project. Single occupancy vehicles must pay by an interior *Good To Go!*TM Pass and may receive a traffic infraction for failure to pay using the Pass.))

(2) **Photo toll payments:** This payment method uses a photograph of a license plate to assess the toll. The photo toll may be paid by toll account; a ~~((Customer Initiated Payment))~~ Short Term Account; by individual payment online, mail, fax, over the phone or in person at a customer service center; or in response to a Pay By Mail toll bill. This payment method is not available on the SR 167 HOT lanes.

(3) **Manual payment:** This payment method is available only on the Tacoma Narrows Bridge. It requires payment at a tollbooth using cash, a credit card or branded debit card. This option also requires you to stop your vehicle at the tollbooth facility to pay.

NEW SECTION

WAC 468-305-105 What can I do to arrange for toll payment before I use a toll facility? (1) Prior to using a toll facility, you can open a toll account either online, in person at a customer service center or over the phone.

(2) When you set up your account or anytime while the account is still open you can select from the following types of accounts:

(a) *Good To Go!*TM Pass account - One or more *Good To Go!*TM Passes can be connected to a toll account. When a pass is detected by sensors on a toll facility and there are sufficient funds in your account to cover the toll, the account will be debited. This type of account can be used on all toll facilities, is quick, simple and offers you the lowest rate.

(b) Pay By Plate account - One or more license plates can be connected to a toll account. When those plates are photographed using a toll facility and there are sufficient funds in your account to cover the toll, the account will be debited. There may be facilities where you cannot use this type of account. Charges associated with this type of account are lower than Pay By Mail charges but more than *Good To Go!*TM Pass account charges.

(c) Short Term Account - If you plan on using a toll facility a limited number of times, within a twenty-day time period, or up to seventy-two hours after use, you can set up a Short Term Account. Short Term Accounts only last twenty days and funds cannot be added after the initial amount is used. Short Term Accounts require you to identify the license plate(s) that you want tied to the account.

(3) All pass and Pay By Plate accounts can be set up to be replenished automatically or manually. The account will remain in place unless closed by the account holder or by WSDOT for lack of sufficient funds or lack of activity.

Accounts set up online must be registered for automatic replenishment.

(4) A vehicle can only be connected to one account at any one time.

NEW SECTION

WAC 468-305-125 Is there a way for me to pay the toll after I drive on a toll facility before I get a toll bill? If you use a toll facility and do not have an account, tolls may be paid by opening an account or, if you have insufficient funds in your account to cover the toll, tolls can be paid by calling the customer service center within seventy-two hours of using the toll facility. A Short Term Account can also be opened up to seventy-two hours after using a toll facility.

NEW SECTION

WAC 468-305-131 What happens when I use a toll facility but do not have an account or I have insufficient funds in my account? (1) If a vehicle uses a toll facility without an account, or there are insufficient funds in the account, a Pay By Mail toll charge will be assessed and a toll bill issued.

(2) A toll bill may contain one or more toll charges.

(3) Toll bills will be sent to the address where the vehicle is registered. It is the registered owner's responsibility to update their registration address with the department of licensing.

NEW SECTION

WAC 468-305-133 What should I do once I receive a toll bill in the mail? Toll charges must be paid or disputed within eighty days of using the toll facility. A first toll bill will be mailed to the registered owner. Toll charges not paid by the due date of the toll bill will receive a second toll bill and will be assessed a five dollar reprocessing fee (one fee per toll bill). If a reprocessing fee is assessed, this fee must also be paid within eighty days of using the toll facility. Toll charges can be paid online, by mail, in person at a customer service center, or by telephone.

NEW SECTION

WAC 468-305-136 What happens if I do not pay or dispute my toll charge? (1) If a toll charge is not disputed or paid within eighty days of the toll charge being incurred, the registered owner of the vehicle incurring the toll may be assessed a civil penalty. A civil penalty is defined in RCW 46.63.160(8) plus the initial toll charge and reprocessing fee.

(2) A notice of civil penalty (NOCP) will be sent by WSDOT to notify the registered vehicle owner of the civil penalty and shall include:

(a) A certification that the license plate in the photo is the license plate of the vehicle being assessed the toll;

(b) The total amount due; and

(c) Instructions for paying or disputing the NOCP.

(3) A notice of civil penalty may include information regarding one or more toll charges that were not paid and their associated civil penalties and reprocessing fees.

NEW SECTION

WAC 468-305-150 What can I do once I received a notice of civil penalty? (1) You can pay the notice of civil penalty.

(2) Payment can be made to the customer service center with cash, check, certified check, credit, debit card, or by money order. Payments can be made online, in person, by mail, or telephone.

(3) You may dispute the notice of civil penalty according to the dispute form provided with the notice.

(4) Failure to timely pay the total amount due or dispute the notice shall automatically result in liability for the amount set out in the notice, and a hold may be placed on the vehicle registration renewal. Unpaid amounts may also be transferred to a collection agency.

NEW SECTION

WAC 468-305-152 What can I do if I dispute my tolls, fees and/or civil penalty? A customer may dispute the toll charges to a toll account or in a toll bill. A toll may be dismissed or adjusted if the customer provides evidence of documented mitigating circumstances as outlined in RCW 46.63.160(5). A customer can dispute tolls, fees and/or civil penalties with the dispute form provided with the notice of civil penalty or available online.

NEW SECTION

WAC 468-305-160 What can I do if I want to pay the tolls but dispute a fee or civil penalty? (1) Registered owners wishing to dispute a fee or civil penalty must contact the customer service center or submit a dispute form.

(2) Dispute forms are included with the notice of civil penalty and are available online. Dispute forms must include a full written statement explaining the reasons for disputing the fee or civil penalty, including any verifiable documents supporting the dispute. The department may waive fees and civil penalties upon the first customer request to do so by applying an education program.

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-210 What is required for a qualified vehicle to claim an exemption? (1) In order to establish a vehicle's exemption approved by the commission, you may be required to meet the following procedures:

(a) Establish that the vehicle(s) is eligible for exemption by submitting a certification of exemption eligibility; and review and monitor toll usage as requested by WSDOT;

(b) Establish and maintain a *Good To Go!*TM toll account in good standing and equip the qualified vehicle with a pass; and

(c) Equip the vehicle with identification signage.

(2) To claim exemptions for specific toll transactions debited from a toll account, the registered owner or its authorized representative must submit a written request which:

(a) Includes the *Good To Go!*TM toll account number;

(b) Identifies the date and time of the transaction(s) for which a credit is being sought;

(c) Includes a signed statement that the qualified vehicle's use of the road met the exemption requirements; and

(d) Submit the written request within eighty days of the toll transaction date. The department may then issue a credit to the toll account.

(3) To claim exemption from specific toll transactions where the registered owner receives a Pay By Mail toll bill, the registered owner or its authorized representative must submit a written request which:

(a) Includes the toll bill number;

(b) Identifies the date and time of the toll transaction(s) for which a credit or waiver is being sought;

(c) Includes a signed statement that the qualified vehicle's use of the road met the exemption requirements; and

(d) Submit the written request within eighty days of the toll transaction date. The department may then waive the toll.

(4) Failure to submit a certification of vehicle(s) exemption eligibility or timely submit a written request for toll transaction credit will result in a waiver of the ability to claim a toll exemption.

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-300 How can I open a *Good To Go!*TM toll account? (1) To open a toll account, you must choose an account type and complete the account application (~~including the optional electronic check authorization if chosen~~).

(2) Prepay at least the minimum fund balance into the account. If you have any (~~amounts due to the toll division~~) outstanding balances, they must be resolved prior to opening an account;

(3) Purchase and install a *Good To Go!*TM Pass (transponder device) for pass transactions; and

(4) Register your vehicle license plate(s) for Pay By Plate transactions.

~~((A toll account may be set up to include Pass transactions and Pay By Plate transactions.~~

Note: The "*Good To Go!*TM" customer contract contains a full explanation of the *Good To Go!*TM terms and conditions associated with the WSDOT "*Good To Go!*TM" toll collection program.))

(5) The "*Good To Go!*TM" customer contract contains a full explanation of the *Good To Go!*TM terms and conditions associated with the WSDOT *Good To Go!*TM toll collection program.

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-320 What are the various statuses that my account could be in? (1) A toll account may be designated with one of the following statuses:

(a) **Proposed.** An account is in this status prior to becoming active.

(b) **Active.** An account is considered active if it is funded and eligible to receive toll transactions.

(c) **Closed.** An account may be closed upon a customer's written request (~~((to close it, or closed by the CSC after~~

~~twenty-four months of inactivity or if the account has a zero or negative balance)) or by the customer service center if there is a lack of sufficient funds or after twenty-four months of inactivity. Any remaining balance will be refunded to the customer.~~

(d) **Suspended.** An account may be suspended for up to twenty-four months at the request of the customer. Transactions and payments cannot post to a suspended toll account.

(2) The CSC will not allow a customer to close an account with a negative balance and reopen a new account. The CSC will notify the customer of the amount due, in writing, when an attempt is made to close an account with a negative balance. Unpaid balances on a toll account may be forwarded to a collections agency.

(3) If an account is suspended, closed or has insufficient funds to cover a toll transaction, the customer will receive a Pay By Mail toll bill for any transactions that do not post to the account.

(4) If funds are available on the account at the time of closure, the customer will be refunded the balance, minus any outstanding tolls and fees.

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-330 How can I get a refund if I close my Good To Go!™ account? When you close your toll account, you may request a refund by mail or in person if you have a registered toll account. Account closure forms may be obtained online, in person or by calling the customer service center. Any outstanding fees or tolls will be deducted from the account balance prior to issuing an account refund. Refunds shall be issued within fifteen days from receipt of the completed account closure form. Refunds shall be made in the form of the original payment, when possible. For example, if deposit was made by credit card, the refund would be credited to the same credit card.

For accounts that cannot be refunded electronically, the customer will be issued a check by WSDOT to the account's last recorded mailing address. Refunds will not be issued to unregistered (~~(transponder)~~) pass accounts.

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-340 In what order will my payment be applied to what I owe in toll charges? The CSC will apply each customer payment (~~(including Customer-Initiated Payments))~~) in the following order:

(1) Any outstanding nonsufficient funds fees or dishonored check fees.

(2) Payment shall be applied to the oldest outstanding unpaid toll transaction based on transaction posting date and time, unless otherwise directed by customer.

~~((2))~~ (3) For each toll transaction, payment will be applied first to the administrative fees then to the toll transaction amount.

NEW SECTION

WAC 468-305-526 What happens once my dispute is received? Timely submitted disputes will be reviewed consistent with the Administrative Procedure Act brief adjudicative proceedings described in RCW 34.05.482 through 34.05.494 and a written decision will be provided.

NEW SECTION

WAC 468-305-527 What happens if I disagree with the outcome of my dispute? You can appeal the initial order by submitting a request for an in-person or written hearing. Information on how to appeal the initial order and a Hearing Request Form will be included with the decision.

If you are requesting a written hearing, you must include all documents and evidence you want to be considered with your request.

NEW SECTION

WAC 468-305-528 What happens if I request an in-person hearing? Once you request a hearing, you will receive a notice of hearing which will contain the date and time of your hearing. The registered owner of the vehicle, or designated agent, must attend the hearing. If you cannot appear on the date scheduled, you must notify the customer service center in writing at least twenty-four hours before the scheduled hearing date to request a new date. Only one such rescheduling is permitted. If you do not appear at a scheduled hearing without notification, you will be liable to pay the tolls, fees, and penalties.

NEW SECTION

WAC 468-305-529 How will I be notified of the hearing decision? An administrative law judge will issue a final order stating whether the registered owner is liable for tolls, fees, and/or civil penalties. Orders issued as the result of a written hearing will be sent to the address provided in the request for written hearing. Orders issued as the result of an in-person hearing will be issued following the conclusion of the hearing. For customers with verifiable mitigating circumstances, the final order is sent to the address provided in the hearing request. For all other in-person hearings, the final order is provided to the customer in writing immediately following the hearing.

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-560 What is the final order? The decision provided by the administrative law judge (~~((ALJ))~~) in response to an administrative hearing (~~((or written dispute and waiver of hearing to contest an NOCP))~~) is a final order.

After consideration of the evidence and argument as presented in either the (~~(Written Dispute and Waiver of))~~ Hearing Request Form, or at the administrative hearing, the administrative law judge will determine (~~((whether the toll violation was committed. When the evidence does not support the toll violation, a final order will dismiss the notice of~~

civil penalty. When it has been established that the violation was committed, a final order affirming the toll violation and civil penalty will be issued)) what tolls, fees and/or civil penalties are due.

AMENDATORY SECTION (Amending WSR 11-07-039, filed 3/14/11, effective 12/3/11)

WAC 468-305-580 How do I find out if ((I have a lien)) a hold has been placed on my vehicle registration ((and how can I get it released)) renewal? You can check with the department of licensing to find out if there is a hold on your vehicle registration renewal. To release the hold, you must pay your civil penalty to either the WSDOT toll enforcement office or, if the matter has been referred to a collection agency, to the collection agency ((as appropriate)).

REPEALER

The following sections of the Washington Administrative Code are repealed:

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| <p>WAC 468-305-010 Who collects the toll charges on WSDOT toll roads and bridges?</p> <p>WAC 468-305-015 What is "dynamic toll pricing"?</p> <p>WAC 468-305-020 What is "variable toll pricing"?</p> <p>WAC 468-305-030 What is the State Route 167 high-occupancy toll (HOT) lanes pilot project?</p> <p>WAC 468-305-110 Why should I use a Good To Go!TM Pass?</p> <p>WAC 468-305-120 What is a photo toll?</p> <p>WAC 468-305-122 What is a Pay By Plate?</p> <p>WAC 468-305-124 What is a Customer-Initiated Payment?</p> <p>WAC 468-305-130 What is a Pay By Mail toll bill?</p> <p>WAC 468-305-132 What information will be included in a Pay By Mail toll bill?</p> <p>WAC 468-305-135 What happens if I don't pay my Pay By Mail toll bill?</p> <p>WAC 468-305-140 How do I dispute a toll charge?</p> <p>WAC 468-305-302 Do I need to establish a separate Good To Go!TM account for each Good To Go!TM toll road or bridge that I use?</p> <p>WAC 468-305-310 What are the different types of Good To Go!TM toll accounts available and what information is required for each?</p> <p>WAC 468-305-420 What administrative services are provided to WSDOT toll customers without charge?</p> <p>WAC 468-305-500 What is a toll violation?</p> <p>WAC 468-305-502 What is a civil penalty?</p> | <p>WAC 468-305-505 What is a notice of civil penalty (NOCP)?</p> <p>WAC 468-305-510 How do I pay a NOCP?</p> <p>WAC 468-305-515 How can I contest or dispute a notice of civil penalty?</p> <p>WAC 468-305-520 How do I submit a written dispute and waiver of hearing?</p> <p>WAC 468-305-525 Who reviews the Written Dispute and Waiver of Hearing Form?</p> <p>WAC 468-305-530 How do I request an in-person administrative hearing?</p> <p>WAC 468-305-550 What is the burden of proof at the hearing or for the written dispute and waiver of hearing?</p> <p>WAC 468-305-562 Can I appeal a final order?</p> <p>WAC 468-305-572 Will interest be charged if an NOCP is not paid?</p> |
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WSR 15-19-146

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed September 22, 2015, 2:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-027.

Title of Rule and Other Identifying Information: WAC 246-322-180 Patient safety and seclusion care, authority of psychiatric advanced registered nurse practitioners (PARNP) and physician's assistants (PA); and WAC 246-322-010 Definitions, defining PARNP.

Hearing Location(s): Washington State Department of Health, Town Center Building 2, Room 145, 111 Israel Road S.E., Tumwater, WA 98501, on October 28, 2015, at 10:00 a.m.

Date of Intended Adoption: November 11, 2015.

Submit Written Comments to: Julie Tomaro, Washington State Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policy-review/>, fax (360) 236-2321, by October 28, 2015.

Assistance for Persons with Disabilities: Contact Julie Tomaro by October 21, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of health is proposing rule making to clarify that a PARNP or a PA may exercise the same authority as physicians regarding the restraint and seclusion of patients in private psychiatric hospitals.

Reasons Supporting Proposal: It is within the scope of practice for PARNP and PA to order restraint and seclusion. The purposed [proposed] rule language would allow medical directors of private psychiatric hospitals to create hospital policies so that PARNPs and PAs may practice to their full scope by ordering patient restraint and seclusion. This allows

for greater continuity of patient care and greater flexibility for hospitals and providers.

Statutory Authority for Adoption: RCW 71.12.670.

Statute Being Implemented: RCW 71.12.670.

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

Name of Proponent: Washington state department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Julie Tomaro, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2937.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Julie Tomaro, Washington State Department of Health, Town Center Building 2, 111 Isreal [Israel] Road S.E., Tumwater, WA 98501, phone (360) 236-2937, fax (360) 236-2321, e-mail julie.tomaro@doh.wa.gov.

September 21, 2015

John Wiesman DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 95-22-012, filed 10/20/95, effective 11/20/95)

WAC 246-322-010 Definitions. The definitions in this section apply throughout the chapter unless the context clearly requires otherwise. For the purposes of this chapter, the following words and phrases have the following meanings unless the context clearly indicates otherwise:

(1) "Abuse" means an act by any individual which injures, exploits or in any way jeopardizes a patient's health, welfare, or safety(¿) including, but not limited to:

(a) Physically damaging or potentially damaging nonaccidental acts;

(b) Emotionally damaging verbal behavior and harassment or other actions which may result in emotional or behavioral problems; and

(c) Sexual use, exploitation and mistreatment through inappropriate touching, inappropriate remarks or encouraging participation in pornography or prostitution.

(2) "Administrator" means the individual responsible for the day-to-day operation of the hospital.

(3) "Advanced registered nurse practitioner" means a registered nurse authorized to practice specialized and advanced nursing according to the requirements in RCW (~~18.88.175~~) 18.79.250.

(4) "Authenticate" means to authorize or validate an entry in a record by:

(a) A signature including first initial, last name, and professional title/discipline; or

(b) A unique identifier which clearly indicates the responsible individual.

(5) "Bathing fixture" means a bathtub, shower, or combination bathtub shower.

(6) "Bathroom" means a room containing one or more bathing fixtures.

(7) "Child psychiatrist" means an individual licensed as a physician under chapter 18.71 or 18.57 RCW who is board-certified or board-eligible with a specialty in child psychiatry by:

(a) The American Board of Psychiatry and Neurology; or

(b) The Bureau for Osteopathic Specialists, American Osteopathic Neurology and Psychiatry.

(8) "Clinical record" means a file maintained by the licensee for each patient containing all pertinent psychological, medical, and clinical information.

(9) "Comprehensive treatment plan" means a written plan of care developed by a multidisciplinary treatment team for an individual patient, based on an assessment of the patient's developmental, biological, emotional, psychological, and social strengths and needs, which includes:

(a) Treatment goals with specific time frames;

(b) Specific services to be provided;

(c) The name of each individual responsible for each service provided;

(d) Behavior management; and

(e) Discharge criteria with estimated time frames.

(10) "Construction" means:

(a) A new building to be used as a hospital or part of a hospital;

(b) An addition, modification or alteration which changes the approved use of a room or area; and

(c) An existing building or portion thereof to be converted for use as a hospital.

(11) "Department" means the Washington state department of health.

(12) "Dietitian" means an individual certified under chapter 18.138 RCW.

(13) "Document" means to record, with authentication, date and time.

(14) "Drug administration" means the act of an authorized individual giving a single dose of prescribed drug or biological to a patient according to the laws and regulations governing such acts.

(15) "Drug dispensing" means interpreting a prescription and, pursuant to that prescription, selecting, measuring, labeling, packaging, and issuing the prescribed medication to a patient or service unit of the facility.

(16) "Exemption" means a written authorization from the department which releases a licensee from meeting a specific requirement or requirements in this chapter.

(17) "Family" means an individual or individuals:

(a) Designated by the patient, who may or may not be related to the patient; or

(b) Legally appointed to represent the patient.

(18) "Governing body" means the person legally responsible for the operation and maintenance of the hospital.

(19) "Health care professional" means an individual who provides health or health-related services within the individual's authorized scope of practice, who is:

(a) Licensed, certified or registered under Title 18 RCW;

or

(b) A recreational therapist as defined in this section.

(20) "Licensed bed capacity" means the patient occupancy level requested by the applicant or licensee and approved by the department.

(21) "Licensee" means the person to whom the department issues the hospital license.

(22) "Maximum security window" means a security window which, if operable, opens only with a key or special tool.

(23) "Mental health professional" means:

(a) A psychiatrist, psychologist, psychiatric nurse or social worker; or

(b) An individual with:

(i) A masters degree in behavioral science, nursing science, or a related field from an accredited college or university; and

(ii) Two years experience directly treating mentally ill individuals under the supervision of a mental health professional.

(24) "Multidisciplinary treatment team" means a group of individuals from various clinical services who assess, plan, implement and evaluate treatment for patients under care.

(25) "Neglect" means conduct which results in deprivation of care necessary to maintain a patient's minimum physical and mental health((;)) including, but not limited to:

(a) Physical and material deprivation;

(b) Lack of medical care;

(c) Inadequate food, clothing or cleanliness;

(d) Refusal to acknowledge, hear or consider a patient's concerns;

(e) Lack of social interaction and physical activity;

(f) Lack of personal care; and

(g) Lack of supervision appropriate for the patient's level of functioning.

(26) "Occupational therapist" means an individual licensed under chapter 18.59 RCW.

(27) "Patient-care staff" means employees, temporary employees, volunteers, or contractors, who provide direct care services for patients.

(28) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, and the legal successor thereof.

(29) "Pharmacist" means an individual licensed as a pharmacist under chapter 18.64 RCW.

(30) "Pharmacy" means the central area in a hospital where prescriptions are filled, or drugs are stored and issued to hospital departments.

(31) "Physician" means an individual licensed under chapter 18.71 or 18.57 RCW.

(32) "Physician assistant" means an individual licensed under chapter 18.71A or 18.57A RCW.

(33) "Private psychiatric hospital" or "hospital" means a privately owned and operated establishment or institution which:

(a) Provides accommodations and services over a continuous period of twenty-four hours or more; and

(b) Is expressly and exclusively for observing, diagnosing, or caring for two or more individuals with signs or symptoms of mental illness, who are not related to the licensee.

(34) "Professional staff" means health care professionals appointed by the governing body to practice within the parameters of the professional staff bylaws.

(35) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner under chapter 18.79 RCW and who is

board certified in advanced practice psychiatric and mental health nursing.

~~((36))~~ (36) "Psychiatric nurse" means a registered nurse with:

(a) A bachelor's degree from an accredited college or university and two years experience directly treating mentally ill or emotionally disturbed individuals under the supervision of a psychiatrist or psychiatric nurse; or

(b) Three years experience directly treating mentally ill or emotionally disturbed individuals under the supervision of a psychiatrist or psychiatric nurse.

~~((37))~~ (37) "Psychiatrist" means an individual licensed as a physician under chapter 18.71 or 18.57 RCW who is board-certified or board-eligible with a specialty in psychiatry by:

(a) The American Board of Psychiatry and Neurology; or

(b) The Bureau for Osteopathic Specialists, American Osteopathic Neurology and Psychiatry.

~~((38))~~ (38) "Psychologist" means an individual licensed under chapter 18.83 RCW.

~~((39))~~ (39) "Recreational therapist" means an individual:

(a) With a bachelor's degree with a major or option in therapeutic recreation or in recreation for the ill and handicapped; or

(b) Certified or certification-eligible under Certification Standards for Therapeutic Recreation Personnel, June 1, 1988, National Council for Therapeutic Recreation Certification, 49 South Main Street, Suite 005, Spring Valley, New York 10977.

~~((40))~~ (40) "Referred outpatient diagnostic service" means a diagnostic test or examination performed outside the hospital which:

(a) Is ordered by a member of the professional staff legally permitted to order such tests and examinations, to whom the findings and results are reported; and

(b) Does not involve a parenteral injection, local or general anesthesia, or a surgical procedure.

~~((41))~~ (41) "Registered nurse" means an individual licensed under chapter 18.88 RCW.

~~((42))~~ (42) "Restraint" means any apparatus or chemical used to prevent or limit volitional body movements.

~~((43))~~ (43) "Seclusion room" means a small room designed for maximum security and patient protection, with minimal sensory stimuli, for the temporary care of one patient.

~~((44))~~ (44) "Security room" means a patient sleeping room designed, furnished and equipped to provide maximum safety and security.

~~((45))~~ (45) "Security window" means a window designed to inhibit exit, entry and injury to a patient, with safety glazing or other security feature to prevent breakage.

~~((46))~~ (46) "Self-administration" means the act of a patient taking the patient's own medication from a properly labeled container while on hospital premises, with the hospital responsible for appropriate medication use.

~~((47))~~ (47) "Sink" means a properly trapped plumbing fixture, with hot and cold water under pressure, which prevents back passage or return of air.

~~((48))~~ (48) "Social worker" means an individual registered or certified as a counselor under chapter 18.19 RCW

with a master's degree in social work from an accredited school of social work.

~~((48))~~ (49) "Special services" means clinical and rehabilitative activities or programs including, but not limited to:

- (a) Educational and vocational training;
- (b) Dentistry;
- (c) Speech therapy;
- (d) Physical therapy;
- (e) Occupational therapy;
- (f) Language translation; and
- (g) Training for individuals with hearing or visual impairment.

~~((49))~~ (50) "Staff" means employees, temporary employees, volunteers, and contractors.

~~((50))~~ (51) "Toilet" means a fixture fitted with a seat and flushing device used to dispose of bodily waste.

~~((51))~~ (52) "Useable floor space" means the total floor surface area excluding area used for closets, wardrobes and fixed equipment.

AMENDATORY SECTION (Amending WSR 95-22-012, filed 10/20/95, effective 11/20/95)

WAC 246-322-180 Patient safety and seclusion care.

(1) The licensee shall assure seclusion and restraint are used only to the extent and duration necessary to ensure the safety of patients, staff, and property, as follows:

(a) Staff shall not inflict pain or use restraint and seclusion for retaliation or personal convenience;

(b) Staff shall document all assaultive incidents in the clinical record and review each incident with the appropriate supervisor;

(c) Staff shall observe any patient in restraint or seclusion at least every fifteen minutes, intervening as necessary, and recording observations and interventions in the clinical record;

(d) Staff shall notify, and receive authorization by, a physician, physician assistant, or psychiatric advanced registered nurse practitioner within one hour of initiating patient restraint or seclusion;

(e) A physician, physician assistant, or psychiatric advanced registered nurse practitioner shall examine each restrained or secluded patient and renew the order for every twenty-four continuous hours of restraint and seclusion; and

(f) A mental health professional or registered nurse shall evaluate the patient when secluded or restrained more than two continuous hours, and reevaluate the patient at least once every eight continuous hours of restraint and seclusion thereafter.

(2) The licensee shall provide adequate emergency supplies and equipment, including airways, bag resuscitators, intravenous fluids, oxygen, sterile supplies, and other equipment identified in the policies and procedures, easily accessible to patient-care staff.

(3) When research is proposed or conducted involving patients, the licensee shall:

(a) Document an initial and continuing review process by a multidisciplinary treatment team;

(b) Require approval by the patient prior to participation;

(c) Allow the patient to discontinue participation at any time; and

(d) Ensure policies and procedures are in accordance with Title 42 Code of Federal Regulations, chapter 1, Part 2, 10/1/89 edition.

(4) The licensee shall prohibit the use of any patient for basic maintenance of the hospital or equipment, housekeeping, or food service in compliance with the Federal Fair Labor Standards Act, 29 U.S.C., paragraph 203 et al., and 29 C.F.R., section 525 et al., except:

(a) Cleaning or maintaining the patient's private living area, or performing personal housekeeping chores; or

(b) Performing therapeutic activities:

(i) Included in and appropriate to the comprehensive treatment plan;

(ii) As agreed to with the patient;

(iii) Documented as part of the treatment program; and

(iv) Appropriate to the age, physical, and mental condition of the patient.

(5) The licensee shall assure the safety and comfort of patients when construction work occurs in or near occupied areas.

WSR 15-19-151

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed September 22, 2015, 3:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-10-070.

Title of Rule and Other Identifying Information: WAC 182-55-005 Authority and purpose, 182-55-010 Definitions, 182-55-015 Committee purpose, 182-55-020 Committee selection, 182-55-025 Committee member requirements and committee member terms, 182-55-026 Committee governance, 182-55-030 Committee coverage determination process, 182-55-035 Committee coverage determination, 182-55-040 Review and publication of coverage determinations, 182-55-045 Advisory group, 182-55-050 Health technology selection, and 182-55-055 Health technology assessment.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106B, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 28, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by October 23, 2015.

Assistance for Persons with Disabilities: Contact Amber Lougheed by e-mail amber.lougheed@hca.wa.gov, (360) 725-1349, TTY (800) 848-5429, or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA has not

reviewed chapter 182-55 WAC since its adoption in 2006. HCA is conducting this rule-making action to provide clarification and modernization of the rules, as well as the adoption of a rule(s) addressing administrative review processes of health technology assessment actions and decisions.

Reasons Supporting Proposal: See Purpose of the Proposal above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is necessary because of state court decision, King County Superior Court, No. 13-2-03122-1 SEA.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA, (360) 725-1408; Implementation and Enforcement: David Iseminger, P.O. Box 45504, Olympia, WA, (360) 725-9792.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

September 22, 2015

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-005 Authority and purpose. Under RCW 70.14.080 through 70.14.140, the ~~((administrator))~~ director of the Washington state health care authority is required to ~~((establish and))~~ provide administrative support for, and is authorized to adopt rules to govern~~((;))~~ the health technology clinical committee and a health technology assessment program ~~((that uses evidence to make coverage determinations for participating state agencies that purchased health care))~~ within the health care authority. The health technology assessment program will:

- ~~((1))~~ ~~((Selects health technologies for assessment;~~
- ~~((2))~~ Contract(s) with an evidence-based technology assessment center to produce health technology assessments;
- ~~((3))~~ ~~Establishes an~~ (2) Administratively support the independent health technology clinical committee; and
- ~~((4))~~ (3) Maintain(s) a centralized, internet-based communication tool.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-010 Definitions. When used in this chapter:

- ~~((1))~~ ~~(("Administrator" means the administrator of the Washington state health care authority under chapter 41.05 RCW, as set forth in RCW 70.14.080, as amended.~~
- ~~((2))~~ "Advisory group" as defined in RCW 70.14.080 means a group established under RCW 70.14.110 (2)(c).

~~((2))~~ "Centralized, internet-based communication tool" means the health care authority's health technology assessment program internet web pages established pursuant to RCW 70.14.130(1).

~~((3))~~ "Committee" as defined in RCW 70.14.080 means the health technology clinical committee (HTCC) established under RCW 70.14.090.

~~((4))~~ "Coverage determination" as defined in RCW 70.14.-080 means a determination of the circumstances, if any, under which a health technology will be included as a covered benefit in a state-purchased health care program((as set forth in RCW 70.14.080, as amended)).

~~((5))~~ "Director" means the director of the Washington state health care authority under chapter 41.05 RCW.

~~((6))~~ "Health technology" as defined in RCW 70.14.080 means medical and surgical devices and procedures, medical equipment, and diagnostic tests. Health technologies do not include prescription drugs governed by RCW 70.14.050.

~~((6))~~ ~~((7))~~ "Participating agency" as defined in RCW 70.14.080 means the department of social and health services, the state health care authority, and the department of labor and industries((as set forth in RCW 70.14.080, as amended).

~~((7))~~ "Reimbursement determination" means a determination to provide or deny reimbursement for a health technology included as a covered benefit in a specific circumstance for an individual patient who is eligible to receive health care services from the state purchased health care program making the determination, as set forth in RCW 70.14.080, as amended).

~~((8))~~ "Health technology assessment" means a report produced by a contracted evidence-based technology assessment center as provided for in RCW 70.14.100(4) that is based on a systematic review of evidence of a technology's safety, efficacy, and cost-effectiveness.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-015 Committee purpose. The purpose of the committee is to make coverage determinations for the participating agencies ~~((based on: A health technology assessment that reviews the scientific evidence of the relative safety, efficacy, and cost; information from any special advisory groups; and their professional knowledge and expertise)).~~

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-020 Committee selection. (1) The ~~((administrator))~~ director, in consultation with the participating state agencies, ~~((shall make appointments to))~~ appoints vacant committee positions~~((, including the appointment of a chair,))~~ from a pool of interested applicants. Interested persons ~~((will be))~~ are provided an opportunity to submit applications to the ~~((administrator))~~ director for consideration.

(2) When appointing committee members, the ~~((administrator will))~~ director considers, in addition to the membership requirements imposed by RCW 70.14.090 ~~((and any)),~~ other relevant information~~((;))~~ including the following ~~((fae-~~

tors)): Practitioner specialty or type and use of health technologies, especially in relation to current committee member specialty or types; practice location and community knowledge; length of practice experience; knowledge of and experience with evidence-based medicine, including formal additional training in fields relevant to evidence-based medicine; medical quality assurance experience; and health technology assessment review experience.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-025 Committee member requirements and committee member terms. (1) As a continuing condition of appointment, committee members:

(a) ~~((Shall))~~ Must not have a substantial financial conflict of interest, such as an interest in a health technology company, including the holding of stock options, or the receipt of honoraria, or consultant moneys;

(b) Must complete a conflict of interest disclosure form, update the form annually, and keep disclosure statements current;

(c) Must abide by confidentiality requirements and keep all personal medical information and proprietary information confidential; and

(d) ~~((Shall))~~ Must not utilize information gained as a result of committee membership outside of committee responsibilities, unless such information is publicly available. The ~~((administrator))~~ director, in his/her sole discretion, may disqualify committee members if ~~((he/she))~~ the director determines that the committee member has violated a condition of appointment.

~~((Committee members shall be appointed to a term of three years and shall serve until a successor is appointed. A member may be reappointed for additional three-year terms for a total of nine years. One year after the end of a nine-year term, a person is eligible for appointment to one additional three-year term.))~~ Committee members serve staggered three-year terms. ~~((Of the initial members,))~~ In order to provide for staggered terms, ~~((some))~~ committee members may be appointed initially for less than three years. If ~~((an))~~ a committee member's initial appointment is for less than twenty-four months, that period of time ~~((shall))~~ is not ~~((be))~~ counted toward the limitation of years of appointment. ~~((Vacancies on the committee will be filled for the balance of the unexpired term.~~

~~((3) The appointed committee chair shall select a vice-chair from among the committee membership, ratify committee bylaws approved by the administrator, and operate the committee according to the bylaws and committee member agreements))~~ described in subsection (3) of this section.

(3) A committee member may be appointed for a total of nine years of service on the committee, but an initial appointment that is less than twenty-four months will not be included in the nine-year limitation. One year after the end of nine consecutive years of service, a former committee member is eligible for appointment to one additional three-year term.

(4) A committee member may serve until a successor is appointed to his or her position notwithstanding the limits on service in subsection (3) of this section.

(5) Mid-term vacancies on the committee are filled for the remainder of the unexpired three-year term.

NEW SECTION

WAC 182-55-026 Committee governance. (1) The committee may establish bylaws, within the applicable statutory and regulatory requirements, to govern the orderly resolution of the committee's purposes. Committee bylaws shall be published on the centralized, internet-based communication tool.

(2) The director appoints a committee chair.

(3) The committee chair:

(a) Selects a vice-chair from among the committee membership;

(b) Presents bylaws, or amendments to the bylaws, to the committee for review and ratification; and

(c) Operates the committee according to the bylaws and committee member agreements.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-030 Committee coverage determination process. (1) In making a coverage determination, committee members shall review and consider the health technology assessment. The committee may also consider other information it deems relevant, including other information provided by the ~~((administrator))~~ director, reports ~~((and/))~~ or testimony from an advisory group, and submissions or comments from the public.

(2) The committee shall give the greatest weight to the evidence determined, based on objective factors, to be the most valid and reliable, considering the nature and source of the evidence, the empirical characteristic of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies. The committee may also consider additional evidentiary valuation factors such as recency ~~((date of information)); relevance (the applicability of the information to the key questions presented or participating agency programs and clients); and bias (presence of conflict of interest or political considerations))~~, relevance, and bias.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-035 Committee coverage determination. Based on the evidence regarding safety, efficacy, and cost-effectiveness of the health technology, the committee shall:

(1) Determine the conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies by deciding that:

(a) Coverage is allowed without special conditions because the evidence is sufficient to conclude that the health technology is safe, efficacious, and cost-effective for all indicated conditions; or

(b) Coverage is allowed with special conditions because the evidence is sufficient to conclude that the health technol-

ogy is safe, efficacious, and cost-effective in only certain situations; or

(c) Coverage is not allowed because either the evidence is insufficient to conclude that the health technology is safe, efficacious, and cost-effective or the evidence is sufficient to conclude that the health technology is unsafe, ~~((ineffectual))~~ inefficacious, or not cost-effective.

(2) Identify whether the coverage determination is consistent with the identified medicare ~~((decisions))~~ national coverage determinations and expert treatment guidelines.

(3) For decisions that are inconsistent with either the identified medicare ~~((decisions))~~ national coverage determinations or expert treatment guidelines, specify the reason(s) for the decision and the evidentiary basis.

(4) For covered health technologies, specify criteria for participating agencies to use when deciding whether the health technology is medically necessary or proper and necessary treatment.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-040 Review and publication of ((committee)) coverage determinations. (1) For each health technology reviewed by the committee, the director reviews the sufficiency and validity of the health technology review process for that health technology and certifies the coverage determination for that health technology before implementation by a participating agency. The review occurs after publication of the final committee coverage determination, as described in this section, and includes whether the:

(a) Notification of the review of the health technology was made on the centralized, internet-based communication tool as required by RCW 70.14.130 (1)(a);

(b) Health technology assessment provided to the committee met the requirements in RCW 70.14.100(4) and WAC 182-55-055;

(c) Health technology assessment was publicly available at least fourteen calendar days before the committee's consideration of the health technology assessment;

(d) Health technology assessment was considered by the committee in an open and transparent process, as required by RCW 70.14.110 (2)(a);

(e) Committee provided an opportunity for public comment prior to the committee's final coverage determination decision;

(f) Committee acknowledged public comment timely received after publication of the committee's draft coverage determination and before the committee's final coverage determination decision;

(g) Committee's final coverage determination specifies the reason(s) for a decision that is inconsistent with the identified medicare national coverage determinations and expert treatment guidelines for the reviewed health technology; and

(h) Committee meetings complied with the requirements of the Open Public Meetings Act as required by RCW 70.14.090(3).

(2) After the committee makes its final coverage determination for a health technology, the director certifies in writing the coverage determination for implementation by a

participating agency, unless the director identifies a failure to meet the requirements outlined in subsection (1) of this section in the committee's decision-making process.

(a) The director's certification occurs within thirty calendar days of the committee's final coverage determination.

(b) When the director denies the certification, the director must send the final coverage determination back to the committee for further consideration and indicate the certification requirements that were not met.

(c) When the director approves a certification, a copy of the written certification is published on the centralized, internet-based communication tool and in the Washington State Register.

(d) The director's final written certification decision can be appealed as other agency action, as described in RCW 34.05.570(4), by an aggrieved individual who is eligible to receive a participating agency's state-purchased health care program. An appeal must be filed in superior court and comply with all statutory requirements for judicial review of other agency action required in chapter 34.05 RCW.

(3) The ~~((administrator shall))~~ director will publish the final ~~((committee))~~ coverage determinations ~~((by posting on a))~~ on the centralized, internet-based communication tool within ten business days of the director's certification described in subsection (2) of this section.

~~((2))~~ (4) Upon publication, participating agencies will implement the committee coverage determination according to their statutory, regulatory, or contractual process unless(=

(a) The determination conflicts with an applicable federal statute or regulation, or applicable state statute; or

(b) Reimbursement is provided under an agency policy regarding experimental or investigational treatment, services under a clinical investigation approved by an institutional review board, or health technologies that have a humanitarian device exemption from the federal food and drug administration)) the provisions of RCW 70.14.120(1) apply.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-045 Advisory group. (1) The committee chair, upon an affirmative vote of the committee members, may establish ad hoc temporary advisory ~~((group(s) if specialized expertise or input from enrollees or clients is needed to review a particular health technology or group of health technologies. The purpose or scope of the advisory group and time period shall be stated. The advisory group shall provide a report and/or testimony to the committee on the key questions identified by the committee as requiring the input of the advisory group.~~

~~((2) Advisory group membership:))~~ groups pursuant to RCW 70.14.110 (2)(c). At the time an ad hoc temporary advisory group is formed, the committee must state the ad hoc temporary advisory group's objective and questions to address.

(2) The committee chair shall make recommendations to the director for appointments to the ad hoc temporary advisory group. An ad hoc temporary advisory group ~~((shall))~~ must include at least three members. ~~((Membership should reflect the diverse perspectives and/or technical expertise that~~

drive the need for the specialized advisory group.) The advisory group ~~((will generally))~~ must include at least one enrollee, client, or patient ~~(; and)~~. The advisory group must have two or more experts or specialists within the field relevant to the health technology, preferably with demonstrated experience in the use, evaluation, or research of the health technology ~~((If substantial controversy over the health technology is present,))~~; at least one expert ~~((that is))~~ must be a proponent or advocate of the health technology and at least one expert ~~((that is))~~ must be an opponent or critic of the health technology ~~((should be appointed. A majority of each advisory group shall have no substantial financial interest in the health technology under review))~~.

~~(3) ((As a continuing condition of appointment, advisory group members:~~

~~((a))~~ The committee chair, or designee, may disqualify or remove an advisory group member. Each advisory group member:

(a) Must not have a substantial financial conflict of interest, such as an interest in a health technology company, including the holding of stock options, or the receipt of honoraria, or consultant moneys;

(b) Must complete an advisory group member agreement, including a conflict of interest disclosure form, and keep disclosure statements current;

~~((b))~~ (c) Must abide by confidentiality requirements and keep all personal medical information and proprietary information confidential; and

~~((e) Shah)~~ (d) Must not utilize information gained as a result of advisory group membership outside of advisory group responsibilities, unless such information is publicly available.

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-050 Health technology selection. ~~(1) ((Prior to selection of a health technology for review or rereview, the administrator shall consider nominations from participating agencies and recommendations from the committee.))~~ The director, in consultation with participating agencies and the committee, selects health technologies to be reviewed or rereviewed by the committee.

~~(2) The ((administrator))~~ director or committee may also consider petitions requesting initial review of a health technology from interested parties. ((The administrator shall make available, including publication to the centralized internet-based communication tool required at RCW 70.14.130, a petition for interested parties to request a health technology be selected for a review or rereview. Interested parties shall complete the petition and submit it to the administrator. The administrator, or designee, will provide copies of the petition to participating agencies and the committee for comment, and provide the completed petition, with any comments, to the administrator for consideration.

~~(2) Interested parties that have submitted a petition for the review or rereview of a health technology that was not selected by the administrator may submit the petition to the committee for review or rereview.~~

~~(3) The committee may consider petitions submitted by interested parties for review or rereview of a health technology. The committee shall apply the priority criteria set forth in RCW 70.14.100.~~

~~(4))~~ To suggest a topic for initial review, interested parties must use the petition form made available on the centralized, internet-based communication tool. The health technology assessment program will provide copies of the petition to the director, committee members, and participating agencies.

(a) Petitions are considered by the director, in consultation with participating agencies and the committee.

(b) Only after the director has declined to grant the petition can a petition be reviewed by the committee, pursuant to RCW 70.14.100(3).

(c) If a health technology is selected by the committee ((shall be)), the health technology is referred to the ((administrator)) director for assignment to the next available contract for a health technology assessment review as described in RCW 70.14.100(4).

(3) Interested parties may submit a petition for the rereview of a health technology. Petitions for rereview are accepted only after a notice is published on the centralized, internet-based communication that the health technology is eligible for rereview. Interested parties must use the petition form made available on the centralized, internet-based communication tool and may submit to the health technology assessment program any new evidence that could change the previous coverage determination. The health technology assessment program will provide copies of the petition to the director, committee members, and participating agencies.

(a) Petitions are considered by the director, in consultation with participating agencies and the committee.

(b) Only after the director has declined to grant the petition can a petition be reviewed by the committee, pursuant to RCW 70.14.100(3).

AMENDATORY SECTION (Amending WSR 06-23-083, filed 11/13/06, effective 12/14/06)

WAC 182-55-055 Health technology assessment. ~~(1) Upon providing notice of the selection of the health technology for review on the centralized, internet-based communication tool required by RCW 70.14.100 (1)(b), the ((administrator))~~ director shall post an invitation for interested parties to submit information relevant to the health technology for consideration by the evidence-based technology assessment center. ((Such)) The relevant information ((shall be required to)) must be submitted to the ((administrator,)) director or designee ((no earlier than)) within thirty calendar days from the date of the notice.

~~(2) Upon notice of the selection of the health technology for review, the ((administrator))~~ director or designee shall request participating agencies to provide information relevant to the health technology, including data on safety, health outcome, and cost. ~~((Such))~~ The relevant information ((shall be required to)) must be submitted to the ((administrator,)) director or designee ((no earlier than)) within thirty calendar days from the date of the notice.

~~(3) Upon notice of the selection of the health technology for review, the ((administrator))~~ director or designee shall

~~((require staff to))~~ identify ~~((and organize))~~ relevant federal medicare national coverage determinations and expert treatment guidelines, and any referenced information used as the basis for such determinations ~~((and/))~~ or guidelines.

(4) The ~~((administrator))~~ director shall provide all information ~~((relevant to the selected health technology))~~ gathered pursuant to subsections (1), (2), and (3) of this section to the evidence-based technology assessment center~~((s))~~ and shall post such information, along with the key questions for review, on ~~((a))~~ the centralized, internet-based communication tool.

(5) Upon completion of the health technology assessment by the evidence-based technology assessment center, the ~~((administrator))~~ director shall provide the committee with:

- (a) ~~((Final))~~ A copy of the health technology assessment;
- (b) Information as to whether the federal medicare program has made a national coverage determination;
- (c) A copy of identified medicare national coverage ~~((decisions))~~ determinations and accompanying information describing the basis for the decision; and
- (d) Information as to whether expert treatment guidelines exist, including those from specialty physician organizations and patient advocacy organizations~~((s))~~ and
- ~~((e))~~ A copy of identified guidelines and accompanying information, and describing the basis for the guidelines.

WSR 15-19-154

PROPOSED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2014-13—Filed September 23, 2015, 8:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-22-086.

Title of Rule and Other Identifying Information: Prior authorization of pharmacy benefits.

Hearing Location(s): Office of the Insurance Commissioner, Training Room (TR-120), 5000 Capitol Boulevard S.E., Tumwater, WA, on November 2, 2015, at 1:00 p.m.

Date of Intended Adoption: November 5, 2015.

Submit Written Comments to: Jim Freeburg, P.O. Box 40258, Olympia, WA 98504, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by November 2, 2015.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by October 31, 2015, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SB 6511 requires the commissioner to adopt rules implementing the recommendations of the OneHealthPort work group dedicated to finding solutions to streamlining the prior authorization of prescription drugs. The work group proposed three solutions that we are writing into regulation.

(1) An emergency fill is authorized under limited instances to allow a pharmacist to fill a prescription when prior authorization is unable to be obtained.

(2) Timeframes for an issuer's approval of prior authorization are extended when insufficient information has been provided by the prescriber in order for the issuer to make a decision on the prior authorization.

(3) Sufficient information must be provided to prescribers and pharmacists to facilitate the processing of a prior authorization.

Reasons Supporting Proposal: The rules will ensure that consumers are able to pick up their prescription drugs when they arrive at a pharmacy.

Statutory Authority for Adoption: RCW 48.02.060, 48.20.450, 48.20.460, 48.165.0301, 48.43.525, 48.43.530, 48.44.020, 48.44.050, 48.46.060(2), 48.46.200.

Statute Being Implemented: RCW 48.165.0301.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Freeburg, 302 Sid Snyder Avenue, Olympia, WA 98504, (360) 725-7170; Implementation: Molly Nollette, 5000 Capitol Boulevard, Tumwater, WA 98504, (360) 725-7117; and Enforcement: AnnaLisa Gellerman, 5000 Capitol Boulevard, Tumwater, WA 98504, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule imposes no new significant costs on any small businesses but rather utilizes existing systems already in place.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jim Freeburg, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-7170, fax (360) 586-3535, e-mail rulescoordinator@oic.wa.gov.

September 23, 2015

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending WSR 14-10-017, filed 4/25/14, effective 5/26/14)

WAC 284-43-130 Definitions. Except as defined in other subchapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Adverse determination" has the same meaning as the definition of adverse benefit determination in RCW 48.43.005, and includes:

(a) The determination includes any decision by a health carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness or is determined to be experimental or investigational and the requested benefit is therefore denied, reduced, or terminated or payment is not provided or made, in whole or in part for the benefit;

(b) The denial, reduction, termination, or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier or its designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;

(c) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit;

(d) A rescission of coverage determination; or

(e) A carrier's denial of an application for coverage.

(2) "Authorization" or "certification" means a determination by the carrier that an admission, extension of stay, or other health care service has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness in relation to the applicable health plan.

(3) "Clinical review criteria" means the written screens, decision rules, medical protocols, or guidelines used by the carrier as an element in the evaluation of medical necessity and appropriateness of requested admissions, procedures, and services under the auspices of the applicable health plan.

(4) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(5) "Covered person" or "enrollee" means an individual covered by a health plan including a subscriber, policyholder, or beneficiary of a group plan.

(6) "Emergency fill" means a limited dispensed amount of medication that allows time for the processing of a preauthorization request. Emergency fill only applies to those circumstances where a patient presents at a contracted pharmacy with an immediate therapeutic need for a prescribed medication that requires a prior authorization.

(7) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

~~((7))~~ (8) "Emergency services" has the meaning set forth in RCW 48.43.005.

~~((8))~~ (9) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

~~((9))~~ (10) "Facility" means an institution providing health care services, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings, and as defined in RCW 48.43.005.

~~((10))~~ (11) "Formulary" means a listing of drugs used within a health plan.

~~((11))~~ (12) "Grievance" has the meaning set forth in RCW 48.43.005.

~~((12))~~ (13) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

~~((13))~~ (14) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

~~((14))~~ (15) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the Patient Protection and Affordable Care Act (P.L. 111-148, as amended (2010)).

~~((15))~~ (16) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

~~((16))~~ (17) "Immediate therapeutic needs" means those needs where passage of time without treatment would result in imminent emergency care, hospital admission or might seriously jeopardize the life or health of the patient or others in contact with the patient.

(18) "Indian health care provider" means:

(a) The Indian Health Service, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 U.S.C. §1661;

(b) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. §1603(14), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. §450 et seq.;

(c) A tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. §1603(26), that operates a health program under a contract or compact to

carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. §450 et seq.;

(d) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. §1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. §1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. §47 (commonly known as the Buy Indian Act); or

(e) An urban Indian organization that operates a health program with funds in whole or part provided by Indian Health Service under a grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. §1603(29).

~~((17))~~ (19) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

~~((18))~~ (20) "Medically necessary" or "medical necessity" in regard to mental health services and pharmacy services is a carrier determination as to whether a health service is a covered benefit because the service is consistent with generally recognized standards within a relevant health profession.

~~((19))~~ (21) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

~~((20))~~ (22) "Mental health services" means in-patient or out-patient treatment, partial hospitalization or out-patient treatment to manage or ameliorate the effects of a mental disorder listed in the *Diagnostic and Statistical Manual (DSM) IV* published by the American Psychiatric Association, excluding diagnoses and treatments for substance abuse, 291.0 through 292.9 and 303.0 through 305.9.

~~((21))~~ (23) "Network" means the group of participating providers and facilities providing health care services to a particular health plan or line of business (individual, small, or large group). A health plan network for issuers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

~~((22))~~ (24) "Out-patient therapeutic visit" or "out-patient visit" means a clinical treatment session with a mental health provider of a duration consistent with relevant professional standards used by the carrier to determine medical necessity for the particular service being rendered, as defined in *Physicians Current Procedural Terminology*, published by the American Medical Association.

~~((23))~~ (25) "Participating provider" and "participating facility" means a facility or provider who, under a contract with the health carrier or with the carrier's contractor or sub-contractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

~~((24))~~ (26) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

~~((25))~~ (27) "Pharmacy services" means the practice of pharmacy as defined in chapter 18.64 RCW and includes any drugs or devices as defined in chapter 18.64 RCW.

~~((26))~~ (28) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

~~((27))~~ (29) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

~~((28))~~ (30) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

~~((29))~~ (31) "Service area" means the geographic area or areas where a specific product is issued, accepts members or enrollees, and covers provided services. A service area must be defined by the county or counties included unless, for good cause, the commissioner permits limitation of a service area by zip code. Good cause includes geographic barriers within a service area, or other conditions that make offering coverage throughout an entire county unreasonable.

~~((30))~~ (32) "Small group plan" means a health plan issued to a small employer as defined under RCW 48.43.-005(33) comprising from one to fifty eligible employees.

~~((31))~~ (33) "Substitute drug" means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

~~((32))~~ (34) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

NEW SECTION

WAC 284-43-325 Pharmacy claims—Rejections, notifications and disclosures. Issuers must provide to submitting pharmacies sufficient information about transactions initiated by the pharmacy so that pharmacy claims can be processed in a timely manner.

(1) For purposes of this section "claim rejection" is an administrative step in the claim process where a claim is neither paid nor denied, but is held awaiting a defined action from the pharmacist, prescriber, or member.

(2) An issuer must notify the submitting pharmacy of a claim rejection electronically and make available to the pharmacy, utilizing the National Council for Prescription Drug Programs (NCPDP) Telecommunications Standard transaction, all required data elements, as well as the following information, to the extent supported by the transaction:

(a) Rejection reasons such as prior authorization, quantity level limit, and exclusion;

(b) Other medications to consider that would not require a preauthorization (if applicable);

(c) Other medications to consider that would require a preauthorization (if applicable);

(d) Instructions for further processing of claim or for more specific contact information which may include a reference to a specific location on a web site;

(e) Contact phone number of a person or department to contact who can provide additional information.

(3) Every issuer must notify its participating pharmacies of its claim process in its contracts.

(4) Every issuer must be responsible for ensuring that any person acting on behalf of or at the direction of the issuer or acting pursuant to carrier standards or requirements complies with these transaction standards.

(5) In every provider agreement, the issuer must:

(a) Disclose if the provider or pharmacy has the right to make a prior authorization request; and

(b) Provide that if the issuer requires the authorization number to be transmitted on a pharmaceutical claim, the issuer will provide the authorization number to the billing pharmacy. The authorization number will be communicated to the billing pharmacy after approval of a prior authorization request and upon receipt of a claim for that authorized medication.

(6) The prior authorization determination must be transmitted to the requesting party and must include the following:

(a) Information about whether a request was approved.

(b) If the request was made by the pharmacy, notification will additionally be made to the prescriber.

(7) In every provider agreement, every issuer will state that an issuer will authorize an emergency fill by the dispensing pharmacist and approve the claim payment. An emergency fill is only applicable when:

(a) The dispensing pharmacy cannot reach the issuer's prior authorization department by phone as it is outside of that department's business hours; or

(b) An issuer is available to respond to phone calls from a dispensing pharmacy regarding a covered benefit, but the issuer cannot reach the prescriber for full consultation.

(8) The issuer's emergency fill policy must include the following:

(a) The inclusionary and exclusionary list of medications provided for emergency fill by issuers. This list must be posted online on the issuer's web site; this can be accomplished by linking to a common web site dedicated to administrative simplification and available to the public, such as OneHealthPort.

(b) The authorized amount of the emergency fill will be no more than the prescribed amount up to a seven day supply or the minimum packaging size available at the time the emergency fill is dispensed.

(c) An emergency fill medication does not necessarily constitute a covered health service. Determination as to whether this is a covered health service under the patient benefit will be made as part of the prior authorization processing.

(9) Pharmacies and issuers are not required to comply with these contract provisions if the failure to comply is occasioned by any act of God, bankruptcy, act of a governmental

authority responding to an act of God or other emergency, or the result of a strike, lockout, or other labor dispute.

AMENDATORY SECTION (Amending WSR 11-24-004, filed 11/28/11, effective 12/29/11)

WAC 284-43-410 Health care services utilization review—Generally. (1) These definitions apply to this section:

(a) "Concurrent care review request" means any request for an extension of a previously authorized inpatient stay or a previously authorized ongoing outpatient service, e.g., physical therapy, home health, etc.

(b) "Immediate review request" means any request for approval of an intervention, care or treatment where passage of time without treatment would, in the judgment of the provider, result in an imminent emergency room visit or hospital admission and deterioration of the patient's health status. Examples of situations that do not qualify under an immediate review request include, but are not limited to, situations where:

(i) The requested service was prescheduled, was not an emergency when scheduled, and there has been no change in the patient's condition;

(ii) The requested service is experimental or in a clinical trial;

(iii) The request is for the convenience of the patient's schedule or physician's schedule; and

(iv) The results of the requested service are not likely to lead to an immediate change in the patient's treatment.

(c) "Nonurgent preservice review request" means any request for approval of care or treatment where the request is made in advance of the patient obtaining medical care or services and is not an urgent care request.

(d) "PostsERVICE review request" means any request for approval of care or treatment that has already been received by the patient.

(e) "Urgent care review request" means any request for approval of care or treatment where the passage of time could seriously jeopardize the life or health of the patient, seriously jeopardize the patient's ability to regain maximum function, or, in the opinion of a physician with knowledge of the patient's medical condition, would subject the patient to severe pain that cannot be adequately managed without the care or treatment that is the subject of the request.

(2) Each ~~((carrier))~~ issuer must maintain a documented utilization review program description and written clinical review criteria based on reasonable medical evidence. The program must include a method for reviewing and updating criteria. ~~((Carriers))~~ Issuers must make clinical review criteria available upon request to participating providers. ~~((A carrier))~~ An issuer need not use medical evidence or standards in its utilization review of religious nonmedical treatment or religious nonmedical nursing care.

(3) The utilization review program must meet accepted national certification standards such as those used by the National Committee for Quality Assurance except as otherwise required by this chapter and must have staff who are properly qualified, trained, supervised, and supported by

explicit written clinical review criteria and review procedures.

(4) Each ((~~carrier~~)) issuer when conducting utilization review must:

(a) Accept information from any reasonably reliable source that will assist in the certification process;

(b) Collect only the information necessary to certify the admission, procedure or treatment, length of stay, or frequency or duration of services;

(c) Not routinely require providers or facilities to numerically code diagnoses or procedures to be considered for certification, but may request such codes, if available;

(d) Not routinely request copies of medical records on all patients reviewed;

(e) Require only the section(s) of the medical record during prospective review or concurrent review necessary in that specific case to certify medical necessity or appropriateness of the admission or extension of stay, frequency or duration of service;

(f) For prospective and concurrent review, base review determinations solely on the medical information obtained by the ((~~carrier~~)) issuer at the time of the review determination;

(g) For retrospective review, base review determinations solely on the medical information available to the attending physician or order provider at the time the health service was provided;

(h) Not retrospectively deny coverage for emergency and nonemergency care that had prior authorization under the plan's written policies at the time the care was rendered unless the prior authorization was based upon a material misrepresentation by the provider;

(i) Not retrospectively deny coverage or payment for care based upon standards or protocols not communicated to the provider or facility within a sufficient time period for the provider or facility to modify care in accordance with such standard or protocol; and

(j) Reverse its certification determination only when information provided to the ((~~carrier~~)) issuer is materially different from that which was reasonably available at the time of the original determination.

(5) Each ((~~carrier~~)) issuer must reimburse reasonable costs of medical record duplication for reviews.

(6) Each ((~~carrier~~)) issuer must have written procedures to assure that reviews and second opinions are conducted in a timely manner.

(a) Review time frames must be appropriate to the severity of the patient condition and the urgency of the need for treatment, as documented in the review request.

(b) If the review request from the provider is not accompanied by all necessary information, the ((~~carrier~~)) issuer must tell the provider what additional information is needed and the deadline for its submission. Upon the sooner of the receipt of all necessary information or the expiration of the deadline for providing information, the time frames for ((~~carrier~~)) issuer review determination and notification must be no less favorable than federal Department of Labor standards, as follows:

(i) For immediate request situations, within one business day when the lack of treatment may result in an emergency visit or emergency admission;

(ii) For concurrent review requests that are also urgent care review requests, as soon as possible, taking into account the medical exigencies, and no later than twenty-four hours, provided that the request is made at least twenty-four hours prior to the expiration of previously approved period of time or number of treatments;

(iii) For urgent care review requests within forty-eight hours;

(iv) For nonurgent preservice review requests, including nonurgent concurrent review requests, within five calendar days; or

(v) For postservice review requests, within thirty calendar days.

(c) Notification of the determination must be provided as follows:

(i) Information about whether a request was approved or denied must be made available to the attending physician, ordering provider, facility, and covered person. ((~~Carriers~~)) Issuers must at a minimum make the information available on their web site or from their call center.

(ii) Whenever there is an adverse determination the ((~~carrier~~)) issuer must notify the ordering provider or facility and the covered person. The ((~~carrier~~)) issuer must inform the parties in advance whether it will provide notification by phone, mail, fax, or other means. For an adverse determination involving an urgent care review request, the ((~~carrier~~)) issuer may initially provide notice by phone, provided that a written or electronic notification meeting United States Department of Labor standards is furnished within seventy-two hours of the oral notification.

(d) As appropriate to the type of request, notification must include the number of extended days, the next anticipated review point, the new total number of days or services approved, and the date of admission or onset of services.

(e) The frequency of reviews for the extension of initial determinations must be based on the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity.

(7) No ((~~carrier~~)) issuer may penalize or threaten a provider or facility with a reduction in future payment or termination of participating provider or participating facility status because the provider or facility disputes the ((~~carrier's~~)) issuer's determination with respect to coverage or payment for health care service.

NEW SECTION

WAC 284-43-420 Drug utilization review—Generally. (1) These definitions apply to this section only:

(a) "Nonurgent review request" means any request for approval of care or treatment where the request is made in advance of the patient obtaining medical care or services, or a renewal of a previously approved request, and is not an urgent care request.

(b) "Urgent care review request" means any request for approval of care or treatment where the passage of time could seriously jeopardize the life or health of the patient, seriously jeopardize the patient's ability to regain maximum function or, in the opinion of a provider with knowledge of the patient's medical condition, would subject the patient to

severe pain that cannot be adequately managed without the care or treatment that is the subject of the request.

(2) Each issuer must maintain a documented drug utilization review program. The program must include a method for reviewing and updating criteria. Issuers must make drug review criteria available upon request to a participating provider.

(3) The utilization review program must meet accepted national certification standards such as those used by the National Committee for Quality Assurance except as otherwise required by this chapter.

(4) The utilization review program must have staff who are properly qualified, trained, supervised, and supported by explicit written clinical review criteria and review procedures.

(5) Each issuer must have written procedures to assure that reviews are conducted in a timely manner.

(a) If the review request from a provider is not accompanied by all necessary information, the issuer must tell the provider what additional information is needed and the deadline for its submission. Upon the sooner of the receipt of all necessary information or the expiration of the deadline for providing information, the time frames for issuer determination and notification must be no less favorable than United States Department of Labor standards, and are as follows:

(i) For urgent care review requests:

(A) Must approve the request within forty-eight hours if the information provided is sufficient to approve the claim and include the authorization number in its approval;

(B) Must deny the request within forty-eight hours if the requested service is not medically necessary and the information provided is sufficient to deny the claim; or

(C) Within twenty-four hours, if the information provided is not sufficient to approve or deny the claim, the issuer must request that the provider submits additional information to make the prior authorization determination:

(I) The issuer must give the provider forty-eight hours to submit the requested information;

(II) The issuer must then approve or deny the request within forty-eight hours of the receipt of the requested additional information and include the authorization number in its approval;

(ii) For nonurgent care review requests:

(A) Must approve the request within five calendar days if the information is sufficient to approve the claim and include the authorization number in its approval;

(B) Must deny the request within five calendar days if the requested service is not medically necessary and the information provided is sufficient to deny the claim; or

(C) Within five calendar days, if the information provided is not sufficient to approve or deny the claim, the issuer must request that the provider submits additional information to make the prior authorization determination:

(I) The issuer must give the provider five calendar days to submit the requested additional information;

(II) The issuer must then approve or deny the request within four calendar days of the receipt of the additional information and include the authorization number in its approval.

(b) Notification of the prior authorization determination must be provided as follows:

(i) Information about whether a request was approved must be made available to the provider;

(ii) Whenever there is an adverse determination resulting in a denial the issuer must notify the requesting provider by one or more of the following methods; phone, fax and/or secure electronic notification, and the covered person in writing or via secure electronic notification. Status information will be communicated to the billing pharmacy, via electronic transaction, upon the issuer's receipt of a claim after the request has been denied. The issuer must transmit these notifications within the time frames specified in (a)(i) and (ii) of this subsection in compliance with United States Department of Labor standards.

(6) No issuer may penalize or threaten a pharmacist or pharmacy with a reduction in future payment or termination of participating provider or participating facility status because the pharmacist or pharmacy disputes the issuer's determination with respect to coverage or payment for pharmacy service.

AMENDATORY SECTION (Amending WSR 12-21-019, filed 10/8/12, effective 11/8/12)

WAC 284-43-818 Formulary changes. ~~((A-carrier))~~ An issuer is not required to use a formulary as part of its prescription drug benefit design. If a formulary is used, ~~((a-carrier))~~ an issuer must, at a minimum, comply with these requirements when a formulary change occurs.

(1) In addition to the requirements set forth in WAC 284-30-450, ~~((a-carrier))~~ an issuer must not exclude or remove a medication from its formulary if the medication is the sole prescription medication option available to treat a disease or condition for which the health benefit plan, policy or agreement otherwise provides coverage, unless the medication or drug is removed because the drug or medication becomes available over-the-counter, is proven to be medically inefficient, or for documented medical risk to patient health.

(2) If a drug is removed from ~~((a-carrier's))~~ an issuer's formulary for a reason other than withdrawal of the drug from the market, availability of the drug over-the-counter, or the issue of black box warnings by the Federal Drug Administration, ~~((a-carrier))~~ an issuer must continue to cover a drug that is removed from the ~~((carrier's))~~ issuer's formulary for the time period required for an enrollee who is taking the medication at the time of the formulary change to use ~~((a-carrier's))~~ an issuer's substitution process to request continuation of coverage for the removed medication, and receive a decision through that process, unless patient safety requires swifter replacement.

(3) Formularies and related preauthorization information must be posted on ~~((a-carrier or a carrier's))~~ an issuer or issuer's contracted pharmacy benefit manager web site and must be current. Unless the removal is done on an immediate or emergency basis or because a generic equivalent becomes available without prior notice, formulary changes must be posted thirty days before the effective date of the change. In the case of an emergency removal, the change must be posted as soon as practicable, without unreasonable delay.

(4) An issuer must make current formulary information electronically available for loading into e-prescribing applications/electronic health records utilizing the National Council for Prescription Drug Programs (NCPDP) formulary and benefit standard transaction. Issuers must include all required data elements as well as the following information, to the extent supported by the transaction:

- (i) Tier level;
- (ii) Contract exclusions;
- (iii) Quantity limits;
- (iv) Preauthorization required;
- (v) Preferred/step therapy.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-19-155
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed September 23, 2015, 9:13 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 246-282-990 Fees, the proposed rule increases the shellfish export certification fee; and establishes a new diarrhetic shellfish poisoning (DSP) fee, combines it with the existing paralytic shellfish poisoning fee and renames the combined fee to "biotoxin fee."

Hearing Location(s): Department of Health, Town Center 2, 111 Israel Road S.E., Tumwater, WA 98501, on October 27, 2015, at 2:00 p.m.

Date of Intended Adoption: October 28, 2015.

Submit Written Comments to: Vicki M. Bouvier, Department of Health, Division of Environmental Public Health, P.O. Box 47822, Olympia, WA 98504-7822, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-3011, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Vicki M. Bouvier by October 20, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed export certification fee increase is to improve customer service and response times, provide for weekend issuance of certificates, ensure twenty-four hour turnaround for all requests, enhance the web based export system, and allow for better tracking of product. This funding request includes the costs for issuing certificates, conducting physical shellfish lot inspections, ensuring areas are cleared for arsenic, and ensuring screening is done for biotoxins.

The purpose of the proposed biotoxin fee is to reduce the risk to public health by increasing testing for shellfish biotoxins to include DSP. Testing for DSP will also allow the department to keep shellfish harvest areas open, allowing recreational and commercial shellfishers to continue harvesting shellfish.

Reasons Supporting Proposal: The export certificate fee proposal addresses requests from the commercial shellfish industry and benefits those who are currently exporting product and requesting export certificates. The shorter processing time provides an economic benefit for these companies while allowing the department to improve the export certificate process, signifying that the shellfish being exported is harvested from approved growing areas and is deemed safe for human consumption.

The proposed biotoxin fee addresses the need for a stable source of funding to provide increased testing for shellfish biotoxins.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 77.32.555.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Laura W. Johnson, 111 Israel Road S.E., Tumwater, WA 98511, (360) 236-3333.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(f), a small business economic impact statement is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

September 22, 2015
 John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 15-11-053, filed 5/15/15, effective 6/15/15)

WAC 246-282-990 Fees. (1) The required annual shellfish operation license fees for shellstock shippers and shucker-packers due October 1, 2011, shall be reduced by twenty-five percent of the annual shellfish operation license fees in subsection (2) of this section. Beginning July 1, 2012, and for every subsequent year, the full annual shellfish operation license fees in subsection (2) of this section shall be assessed.

(2) Annual shellfish operation license fees are:

<u>Type of Operation</u>	<u>Annual Fee</u>
Harvester	\$263
Shellstock Shipper	
0 - 49 Acres	\$297
50 or greater Acres	\$476
Scallop Shellstock Shipper	\$297
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$542

Type of Operation	Annual Fee
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$656
Plants with floor space > 5000 sq. ft.	\$1,210
(3) The fee for each export certificate is \$((20.00)) <u>55.00</u> .	
(4) Annual ((PSP)) <u>biotoxin</u> testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:	

Fee Category

Type of Operation	Number of Harvest Sites	Fee
Harvester	≤ 2	\$((173)) <u>353</u>
Harvester	3 or more	\$((259)) <u>535</u>
<u>Shellstock Shipper</u>		<u>\$198</u>
<u>Wholesale Company</u>		
Shellstock Shipper 0 - 49 acres	≤ 2	\$((195)) <u>393</u>
Shellstock Shipper 0 - 49 acres	3 or more	\$((292)) <u>610</u>
Shellstock Shipper 50 or greater acres	N/A	\$((468)) <u>961</u>
Shucker-Packer (plants < 2000 ft ²)	≤ 2	\$((354)) <u>752</u>
Shucker-Packer (plants < 2000 ft ²)	3 or more	\$((533)) <u>1,076</u>
Shucker-Packer (plants 2000 - 5000 ft ²)	≤ 2	\$((429)) <u>882</u>
Shucker-Packer (plants 2000 - 5000 ft ²)	3 or more	\$((644)) <u>1,297</u>
Shucker-Packer (plants > 5000 ft ²)	N/A	\$((1,189)) <u>2,412</u>

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

- (i) At the time of first licensure; or
- (ii) January 1 of each year for companies licensed as harvesters; or
- (iii) July 1 of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(5) Annual PSP testing fees for companies harvesting geoduck are as follows:

Harvester	Fee
Department of natural resources (quota tracts harvested by DNR contract holders)	\$10,670

Harvester	Fee
Discovery Bay Shellfish	\$1,135
Jamestown S'Klallam Tribe	\$1,589
Lower Elwha Klallam Tribe	\$2,384
Lummi Nation	\$227
Nisqually Tribe	\$5,902
Port Gamble S'Klallam Tribe	\$1,362
Puyallup Tribe of Indians	\$8,286
Skokomish Indian Tribe	\$114
Squaxin Island Tribe	\$3,292
Suquamish Tribe	\$15,093
Swinomish Tribe	\$1,022
Tulalip Tribe	\$6,924

(6) ((PSP)) Fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(7) Refunds for ((PSP)) fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

WSR 15-19-156
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed September 23, 2015, 9:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-14-122 on July 1, 2015.

Title of Rule and Other Identifying Information: WAC 232-12-284 Bighorn sheep—Marking and ownership requirements.

Hearing Location(s): Natural Resource[s] Building, Room 630, 1111 Washington Street S.E., Olympia, WA 98501, on November 6, 2015, at 8:30 a.m.

Date of Intended Adoption: On or after November 6, 2015.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501, e-mail wildthing@dfw.wa.gov, fax (360) 902-2162, by October 31, 2015.

Assistance for Persons with Disabilities: Contact Tami Lininger by October 23, 2015, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Provides a mechanism by which bighorn sheep horns legally acquired prior to the era of permanent marking can be inspected, marked, and entered into the long-term database. This provides certainty to both the owner of the horns and the department that the horns were acquired legally.

Reasons Supporting Proposal: Allay concern expressed by members of the public that bighorn sheep horns acquired

prior to the initiation of the current marking system could not be legally retained.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.055, and 77.12.047.

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

Name of Proponent: Washington department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Nate Pamplin, Natural Resource[s] Building, (360) 902-2515; and Enforcement: Steven Crown, Natural Resource[s] Building, (360) 902-2373.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules apply to recreational hunting and do not affect small business.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not involve hydraulics.

September 23, 2015

Joanna M. Eide

Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-10-048, filed 4/29/15, effective 5/30/15)

WAC 232-12-284 Bighorn sheep—Marking requirements. (1) For the purpose of this section, horns are defined as the hollow sheath of bighorn sheep ram. The horns do not have to be paired and may include one horn.

(2) It is unlawful for a person who kills a bighorn sheep ram taken in Washington to fail, within ten days after acquisition, to personally present the horns for inspection and permanent marking at a department office or location designated by a department representative. A department employee shall permanently mark one of the horns of each lawfully acquired bighorn sheep. A violation of this subsection is punishable under RCW 77.15.280 (1)(c).

(3) It is unlawful for any person to possess the horns of a bighorn sheep ram originating in Washington except as described in subsections (2) and (4) of this section. Horns of bighorn sheep found dead in Washington must be left in the field. A violation of this subsection is punishable under RCW 77.15.410.

(4) It is unlawful to offer for sale, sell, purchase, or barter, bighorn sheep horns without a written permit authorized by the director. Permits will only be granted where such sale, purchase, or barter will specifically benefit bighorn sheep conservation or management. It is unlawful for any person who transfers ownership or possession of the horns of a bighorn sheep ram that have been permanently marked to fail to give written notice of the transfer to the department within ~~(ten)~~ thirty days after the transfer. In the case of horns originating from a bighorn sheep legally obtained prior to the initiation of permanent marking in the jurisdiction of its origin, the director is authorized to issue a permit for possession (but not for resale); such a permit must subsequently be retained with the horns. After such a permit is issued, the horns must be presented for permanent marking to a WDFW office within thirty days. A violation of this subsection is punish-

able under RCW 77.15.750, provided it does not involve trafficking of bighorn sheep or the parts thereof. ~~((A violation of this subsection involving the trafficking of bighorn sheep or the parts thereof is punishable under RCW 77.15.260.))~~

WSR 15-19-157

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed September 23, 2015, 9:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-07-045.

Title of Rule and Other Identifying Information: WAC 182-500-0030 Medical assistance definitions—E, 182-533-0400 Maternity care and newborn delivery, and 182-531-0150 Noncovered physician-related and health care professional services—General and administrative.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 28, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Amber Loughheed by October 20, 2015, e-mail amber.loughheed@hca.wa.gov, (360) 725-1349, TTY (800) 848-5429, or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency will no longer pay for elective (nonmedically necessary) deliveries before thirty-nine weeks of gestation. The agency will pay for an early delivery if medically necessary under the proposed rules in WAC 182-533-0400. The agency also updated policy for smoking cessation counseling in WAC 182-533-0400. During the course of this review the agency has amended outdated references to Title 388 WAC, and clarified language throughout all open sections.

Reasons Supporting Proposal: The American College of Obstetricians and Gynecologists (ACOG) has consistently advised against nonmedically indicated elective deliveries prior to thirty-nine weeks gestation. These elective deliveries can increase the risk of significant complications for both the mother and the baby. Babies born in the thirty-seven - thirty-nine week range are likely to have less fully-developed brains, lungs and livers than those born after thirty-nine weeks. Some of these babies will require care in the neonatal intensive care unit which increases the cost of these deliveries. The Bree Collaborative recommends that no deliveries before thirty-nine weeks should occur; these rules are intended to implement that recommendation.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1842; Implementation and Enforcement: Lisa Humphrey, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1617.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative [rules] review committee has not requested the filing of a small business economic impact statement, and these rules do not impose a disproportionate cost impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

September 23, 2015

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-500-0030 Medical assistance definitions—E. "Early and periodic screening, diagnosis and treatment (EPSDT)" is a comprehensive child health program that entitles infants, children, and youth to preventive care and treatment services. EPSDT is available to ~~((persons twenty years of age))~~ people age twenty and younger who are eligible for any agency health care program. Access and services for EPSDT are governed by federal rules at 42 C.F.R., Part 441, Subpart B. See ~~((also))~~ chapter 182-534 WAC.

"Early elective delivery" means any nonmedically necessary induction or cesarean section before thirty-nine weeks of gestation. Thirty-nine weeks of gestation is greater than thirty-eight weeks and six days.

"Emergency medical condition" means the sudden onset of a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (1) Placing the patient's health in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

"Employer-sponsored dependent coverage" means creditable health coverage for dependents offered by a family member's employer or union, for which the employer or union may contribute in whole or in part towards the premium. Extensions of such coverage (e.g., COBRA extensions) also qualify as employer-sponsored dependent coverage as long as there remains a contribution toward the premiums by the employer or union.

"Evidence-based medicine (EBM)" means the application of a set of principles and a method for the review of well-designed studies and objective clinical data to determine

the level of evidence that proves to the greatest extent possible, that a health care service is safe, effective, and beneficial when making:

(1) Population-based health care coverage policies (WAC 182-501-0055 describes how the agency or its designee determines coverage of services for its health care programs by using evidence and criteria based on health technology assessments); and

(2) Individual medical necessity decisions (WAC 182-501-0165 describes how the agency or its designee uses the best evidence available to determine if a service is medically necessary as defined in WAC 182-500-0030).

"Exception to rule." See WAC 182-501-0160 for exceptions to noncovered health care services, supplies, and equipment. See WAC 182-503-0090 for exceptions to program eligibility.

"Expedited prior authorization (EPA)" means the process for obtaining authorization for selected health care services in which providers use a set of numeric codes to indicate to the agency or the agency's designee which acceptable indications, conditions, or agency or agency's designee-defined criteria are applicable to a particular request for authorization. EPA is a form of "prior authorization."

"Extended care services" means nursing and rehabilitative care in a skilled nursing facility provided to a recently hospitalized medicare patient.

AMENDATORY SECTION (Amending WSR 15-03-041, filed 1/12/15, effective 2/12/15)

WAC 182-531-0150 Noncovered physician-related and health care professional services—General and administrative. (1) ~~((Except as provided in WAC 182-531-0100 and subsection (2) of this section, the medicare agency does not cover the following:))~~ The agency evaluates a request for noncovered services in this chapter under WAC 182-501-0160. In addition to noncovered services found in WAC 182-501-0070, the medicare agency does not cover:

- (a) Acupuncture, massage, or massage therapy;
- (b) Any service specifically excluded by statute;
- (c) Care, testing, or treatment of infertility, frigidity, or impotency. This includes procedures for donor ovum, sperm, womb, and reversal of vasectomy or tubal ligation;
- (d) Hysterectomy performed solely for the purpose of sterilization;
- (e) Cosmetic treatment or surgery, except as provided in WAC 182-531-0100 (4)(x);
- (f) Experimental or investigational services, procedures, treatments, devices, drugs, or application of associated services, except when the individual factors of an individual client's condition justify a determination of medical necessity under WAC 182-501-0165;
- (g) Hair transplantation;
- (h) Marital counseling or sex therapy;
- (i) More costly services when the medicare agency determines that less costly, equally effective services are available;
- (j) Vision-related services as follows:
 - (i) Services for cosmetic purposes only;
 - (ii) Group vision screening for eyeglasses; and

(iii) Refractive surgery of any type that changes the eye's refractive error. The intent of the refractive surgery procedure is to reduce or eliminate the need for eyeglass or contact lens correction. This refractive surgery does not include intraocular lens implantation following cataract surgery.

(k) Payment for body parts, including organs, tissues, bones and blood, except as allowed in WAC 182-531-1750;

(l) Physician-supplied medication, except those drugs which the client cannot self-administer and therefore are administered by the physician in the physician's office;

(m) Physical examinations or routine checkups, except as provided in WAC 182-531-0100;

(n) Foot care, unless the client meets criteria and conditions outlined in WAC 182-531-1300, as follows:

(i) Routine foot care(~~(, such as)~~) including, but not limited to:

- (A) Treatment of tinea pedis;
- (B) Cutting or removing warts, corns and calluses; and
- (C) Trimming, cutting, clipping, or debriding of nails.

(ii) Nonroutine foot care(~~(, such as)~~) including, but not limited to, treatment of:

- (A) Flat feet;
- (B) High arches (cavus foot);
- (C) Onychomycosis;
- (D) Bunions and tailor's bunion (hallux valgus);
- (E) Hallux malleus;
- (F) Equinus deformity of foot, acquired;
- (G) Cavovarus deformity, acquired;
- (H) Adult acquired flatfoot (metatarsus adductus or pes planus);

(I) Hallux limitus.

(iii) Any other service performed in the absence of localized illness, injury, or symptoms involving the foot;

(o) Except as provided in WAC 182-531-1600, weight reduction and control services, procedures, treatments, devices, drugs, products, gym memberships, equipment for the purpose of weight reduction, or the application of associated services;

(p) Nonmedical equipment;

(q) Nonemergent admissions and associated services to out-of-state hospitals or noncontracted hospitals in contract areas; (~~and~~)

(r) Vaccines recommended or required for the sole purpose of international travel. This does not include routine vaccines administered according to current centers for disease control (CDC) advisory committee on immunization practices (ACIP) immunization schedule for adults and children in the United States; and

(s) Early elective deliveries as defined in WAC 182-500-0030.

(2) The medicaid agency covers excluded services listed in (1) of this subsection if those services are mandated under and provided to a client who is eligible for one of the following:

(a) The EPSDT program;

(b) A Washington apple health program for qualified **medicare** beneficiaries (QMBs); or

(c) A waiver program.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-533-0400 Maternity care and newborn delivery. (1) The following definitions and abbreviations and those found in (~~(WAC 388-500-0005)~~) chapter 182-500 WAC apply to this chapter.

(a) **"Birthing center"** means a specialized facility licensed as a childbirth center by the department of health (DOH) under chapter 246-349 WAC.

(b) **"Bundled services"** means services integral to the major procedure that are included in the fee for the major procedure. Under this chapter, certain services which are customarily bundled must be billed separately (unbundled) when the services are provided by different providers.

(c) **"Facility fee"** means the portion of the (~~(department's)~~) medicaid agency's payment for the hospital or birthing center charges. This does not include the (~~(department's)~~) agency's payment for the professional fee (~~(defined below)~~).

(d) **"Global fee"** means the fee the (~~(department)~~) agency pays for total obstetrical care. Total obstetrical care includes all bundled antepartum care, delivery services and postpartum care.

(e) **"High-risk"** pregnancy means any pregnancy that poses a significant risk of a poor birth outcome.

(f) **"Professional fee"** means the portion of the (~~(department's)~~) agency's payment for services that rely on the provider's professional skill or training, or the part of the reimbursement that recognizes the provider's cognitive skill. (See WAC (~~(388-531-1850)~~) 182-531-1850 for reimbursement methodology.)

(2) The (~~(department)~~) agency covers full scope medical maternity care and newborn delivery services to fee-for-service clients who (~~(qualify for)~~) are categorically needy (CN) (~~(or)~~) under WAC 182-510-0001, medically needy (MN) (~~(scope of care (see WAC 388-462-0015 for client eligibility))~~) under WAC 182-519-0050, or who qualify for an alternative benefit plan under WAC 182-501-0060. Clients enrolled in (~~(the department)~~) an agency managed care plan must receive all medical maternity care and newborn delivery services through the plan. See subsection (~~((20))~~) (21) of this section for client eligibility limitations for smoking cessation counseling provided as part of antepartum care services.

(3) The (~~(department)~~) agency does not provide maternity care and delivery services to (~~(its)~~) clients who are eligible for:

(a) Family planning only (a pregnant client under this program should be referred to the local community services office for eligibility review); or

(b) Any other program not listed in this section.

(4) The (~~(department)~~) agency requires providers of maternity care and newborn delivery services to meet all (~~(of)~~) the following (~~(Providers must)~~) requirements:

(a) (~~(Be currently licensed)~~) Providers must be currently licensed:

(i) By the state of Washington's department of health (DOH) (~~(and)~~), or department of licensing, or both; or

(ii) According to the laws and rules of any other state, if exempt under federal law;

(b) Have a signed core provider agreement(~~(s)~~) with the (~~(department)~~) agency;

(c) Be practicing within the scope of their licensure; and
 (d) Have valid certifications from the appropriate federal or state agency, if such is required to provide these services (e.g., federally qualified health centers (FQHCs), laboratories certified through the Clinical Laboratory Improvement Amendment (CLIA)(~~-etc-~~)).

(5) The ~~((department))~~ agency covers total obstetrical care services (paid under a global fee). Total obstetrical care includes all ~~((of))~~ the following:

(a) Routine antepartum care that begins in any trimester of a pregnancy;

(b) Delivery (intrapartum care~~(/)~~ and birth) services; and

(c) Postpartum care. This includes family planning counseling.

(6) When an eligible client receives all the services listed in subsection (5) of this section from one provider, the ~~((department))~~ agency pays that provider a global obstetrical fee.

(7) When an eligible client receives services from more than one provider, the ~~((department))~~ agency pays each provider for the services furnished. The separate services that the ~~((department))~~ agency pays appear in subsection (5) of this section.

(8) The ~~((department))~~ agency pays for antepartum care services in one of the following two ways:

(a) Under a global fee; or

(b) Under antepartum care fees.

(9) The ~~((department's))~~ agency's fees for antepartum care include all ~~((of))~~ the following:

(a) Completing an initial and any subsequent patient history;

(b) Completing all physical examinations;

(c) Recording and tracking the client's weight and blood pressure;

(d) Recording fetal heart tones;

(e) Performing a routine chemical urinalysis (including all urine dipstick tests); and

(f) Providing maternity counseling.

(10) The ~~((department))~~ agency covers certain antepartum services in addition to the bundled services listed in subsection (9) of this section~~(-The department pays separately for any of the following))~~ as follows:

(a) The agency pays for either of the following, but not both:

(i) An enhanced prenatal management fee (a fee for medically necessary increased prenatal monitoring). The ~~((department))~~ agency provides a list of diagnoses ~~((and/))~~ or conditions, or both, that the ~~((department))~~ agency identifies as ~~((justifying))~~ justification for more frequent monitoring visits~~(-The department pays for either (a) or (b) of this subsection, but not both;~~

~~(b)); or~~

(ii) A prenatal management fee for "high-risk" maternity clients. This fee is payable to either a physician or a certified nurse midwife. ~~((The department pays for either (a) or (b) of this subsection, but not both;~~

~~(e))~~ (b) The agency pays for both of the following:

(i) Necessary prenatal laboratory tests except routine chemical urinalysis, including all urine dipstick tests, as described in subsection (9)(e) of this section; and~~(/or~~

~~(d))~~ (ii) Treatment of medical problems that are not related to the pregnancy. The ~~((department))~~ agency pays these fees to physicians or advanced registered nurse practitioners (ARNP).

(11) The ~~((department))~~ agency covers high-risk pregnancies. The ~~((department))~~ agency considers a pregnant client to have a high-risk pregnancy when the client:

(a) Has any high-risk medical condition (whether or not it is related to the pregnancy); or

(b) Has a diagnosis of multiple births.

(12) The ~~((department))~~ agency covers delivery services for clients with high-risk pregnancies, described in subsection (11) of this section, when the delivery services are provided in a hospital.

(13) The ~~((department))~~ agency pays a facility fee for delivery services in the following settings:

(a) Inpatient hospital; or

(b) Birthing centers.

(14) The ~~((department))~~ agency pays a professional fee for delivery services in the following settings:

(a) Hospitals, to a provider who meets the criteria in subsection (4) of this section and who has privileges in the hospital;

(b) Planned home births and birthing centers.

(15) The ~~((department))~~ agency covers hospital delivery services for an eligible client as defined in subsection (2) of this section. The ~~((department's))~~ agency's bundled payment for the professional fee for hospital delivery services include:

(a) The admissions history and physical examination; and

(b) The management of uncomplicated labor (intrapartum care); and

(c) The vaginal delivery of the newborn (with or without episiotomy or forceps); or

(d) Cesarean delivery of the newborn.

(16) The ~~((department))~~ agency pays only a labor management fee to a provider who begins intrapartum care and unanticipated medical complications prevent that provider from following through with the birthing services.

(17) In addition to the ~~((department's))~~ agency's payment for professional services in subsection (15) of this section, the ~~((department))~~ agency may pay separately for services provided by any of the following professional staff:

(a) A stand-by physician in cases of high risk delivery ~~((and/))~~ or newborn resuscitation, or both;

(b) A physician assistant or registered nurse "first assist" when delivery is by cesarean section;

(c) A physician, ~~((/))~~ ARNP~~(/))~~, or licensed midwife for newborn examination as the delivery setting allows; and~~((/ or))~~

(d) An obstetrician~~(/)~~, or gynecologist specialist, or both, for external cephalic version and consultation.

(18) In addition to the professional delivery services fee in subsection (15) or the global/total fees (i.e., those that include the hospital delivery services) in subsections (5) and (6) of this section, the ~~((department))~~ agency allows additional fees for any of the following:

(a) High-risk vaginal delivery;

(b) Multiple vaginal births. The ~~((department's))~~ agency's typical payment covers delivery of the first child. For each subsequent child, the ~~((department))~~ agency pays at fifty percent of the provider's usual and customary charge, up to the ~~((department's))~~ agency's maximum allowable fee; or

(c) High-risk cesarean section delivery.

(19) The ~~((department))~~ agency does not pay separately for any of the following:

(a) More than one child delivered by cesarean section during a surgery. The ~~((department's))~~ agency's cesarean section surgery fee covers one or multiple surgical births;

(b) Postoperative care for cesarean section births. This is included in the surgical fee. Postoperative care is not the same as, or part of, postpartum care.

(20) The agency pays for an early delivery, including induction or cesarean section, before thirty-nine weeks of gestation only if medically necessary. The agency considers an early delivery to be medically necessary if the mother or fetus has a diagnosis listed in the Joint Commission's current table of Conditions Possibly Justifying Elective Delivery Prior to 39 Weeks Gestation.

(21) The agency will only pay for antepartum and postpartum professional services for an early elective delivery as defined in WAC 182-500-0030.

(22) The hospital will receive no payment for an early elective delivery as defined in WAC 182-500-0030.

(23) In addition to the services listed in subsection (10) of this section, the ~~((department))~~ agency covers counseling for tobacco dependency for eligible pregnant women through two months postpregnancy. This service is commonly referred to as smoking cessation education or counseling.

(a) The ~~((department))~~ agency covers smoking cessation counseling for ~~((only those fee-for-service clients who are eligible for categorically needy (CN) scope of care))~~ all FFS pregnant clients except those enrolled in TAKE CHARGE, Family Planning and Alien Emergency Medical (AEM). See ~~((f))~~ (g) of this subsection for limitations on prescribing pharmacotherapy for eligible ~~((CN))~~ clients. Clients enrolled in managed care may participate in a smoking cessation program through their plan.

(b) The ~~((department))~~ agency pays a fee to ~~((ertain))~~ providers who include face-to-face smoking cessation counseling as part of an antepartum care visit or a postpregnancy office visit (which must take place within two months following live birth, miscarriage, fetal death, or pregnancy termination). The ~~((department))~~ agency pays only the following providers for face-to-face smoking cessation counseling:

(i) Physicians;

(ii) Physician assistants (PA) working under the guidance and billing under the provider number of a physician;

(iii) ARNPs, including certified nurse midwives (CNM); ~~((and))~~

(iv) Licensed midwives (LM);

(v) Psychologists; and

(vi) Pharmacists.

(c) The ~~((department covers one))~~ agency covers two face-to-face smoking cessation attempts (or up to eight cessation counseling sessions) every twelve months. A smoking

cessation attempt is defined as up to four cessation counseling sessions.

(d) The agency covers one face-to-face smoking cessation counseling session per client, per day (~~(, up to ten sessions per client, per pregnancy))~~. The provider must keep written documentation in the client's file for each session. The documentation must reflect the information in ~~((e))~~ (f) of this subsection.

~~((d))~~ The department covers two levels of counseling. Counseling levels are:

(i) ~~Basic counseling (fifteen minutes), which includes (e)(i), (ii), and (iii) of this subsection; and~~

(ii) ~~Intensive counseling (thirty minutes), which includes the entirety of (e) of this subsection.)~~ (e) The agency covers face-to-face counseling for eligible pregnant clients.

(f) Smoking cessation counseling consists of providing face-to-face information and assistance to help the client stop smoking. Smoking cessation counseling includes the following steps (refer to the ~~((department's))~~ agency's physician-related services ~~((billing instructions and births and birthing centers billing instructions))~~ provider guide for specific counseling suggestions and billing requirements):

(i) Asking the client about her smoking status;

(ii) Advising the client to stop smoking;

(iii) Assessing the client's willingness to set a quit date;

(iv) Assisting the client to stop smoking, which includes developing a written quit plan with a quit date. If the provider considers it appropriate for the client, the "assisting" step may also include prescribing smoking cessation pharmacotherapy as needed (see ~~((f))~~ (g) of this subsection); and

(v) Arranging to track the progress of the client's attempt to stop smoking.

~~((f))~~ (g) A provider may prescribe pharmacotherapy for smoking cessation for a client when the provider considers the treatment is appropriate for the client. The ~~((department))~~ agency covers certain pharmacotherapy for smoking cessation, including prescription drugs and over-the-counter nicotine replacement therapy, as follows:

(i) ~~((The department covers Zyban™ only;~~

~~((ii))~~ The product must meet the rebate requirements described in WAC ~~((388-530-1125))~~ 182-530-7500;

~~((iii))~~ (ii) The product must be prescribed by a physician, ARNP, or physician assistant;

~~((iv))~~ (iii) The client for whom the product is prescribed must be age eighteen ~~((years of age))~~ or older;

~~((v))~~ (iv) The pharmacy provider must obtain prior authorization from the ~~((department))~~ agency when filling the prescription for pharmacotherapy; and

~~((vi))~~ (v) The prescribing provider must include both of the following on the client's prescription:

(A) The client's estimated or actual delivery date; and

(B) Indication the client is participating in smoking cessation counseling.

~~((g))~~ (h) The ~~((department's))~~ agency's payment for smoking cessation counseling is subject to postpay review (~~(- See WAC 388-502-0230, Provider review and appeal, and WAC 388-502A-1100, Provider audit dispute process))~~ under WAC 182-502-0230 and chapter 182-502A WAC.

WSR 15-19-159
PROPOSED RULES
HEALTH CARE AUTHORITY
 (Washington Apple Health)
 [Filed September 23, 2015, 9:57 a.m.]

unless requested by the joint administrative rules review committee or applied voluntarily.

September 23, 2015
 Wendy Barcus
 Rules Coordinator

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-07-046.

Title of Rule and Other Identifying Information: WAC 182-550-3840 Payment adjustment for potentially preventable readmissions and 182-550-3000 Payment method.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000, on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 28, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Amber Lougheed by October 23, 2015, TTY (800) 848-5429, (360) 725-1349, or e-mail amber.lougheed@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is filing these rules to implement a population-based, data-driven approach to affect inpatient hospital readmission rates and related costs. The anticipated result is a more efficient use of health care dollars. By improving the quality of care provided during an inpatient admission, improving discharge planning, improving community provider connections to deliver post-discharge care, and assuring post-discharge care coordination, preventable readmissions will be avoided.

As a result of these changes, the agency needs to revise WAC 182-550-2900 and will file those amendments under a separate CR-102.

Reasons Supporting Proposal: This program will decrease inefficiencies in the transition back to the community and contribute to better use of health care dollars.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1408; Implementation and Enforcement: Gail Kreiger, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1681.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed filing does not create a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules

AMENDATORY SECTION (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

WAC 182-550-3000 Payment method. (1) The medic-aid agency uses the diagnosis-related group (DRG) payment method to pay for covered inpatient hospital services, except as specified in WAC 182-550-4300 and 182-550-4400.

(2) The agency assigns a DRG code to each claim for an inpatient hospital stay using 3M™ software (AP-DRG or APR-DRG) or other software currently in use by the agency. That DRG code determines the method used to pay claims for prospective payment system (PPS) hospitals. For the purpose of this section, PPS hospitals include all in-state and border area hospitals, except both of the following:

(a) Critical access hospitals (CAH), which the agency pays per WAC 182-550-2598; and

(b) Military hospitals, which the agency pays using the following payment methods depending on the revenue code billed by the hospital:

- (i) Ratio of costs-to-charges (RCC); and
- (ii) Military subsistence per diem.

(3) For each DRG code, the agency establishes an average length of stay (ALOS). The agency may use the DRG ALOS as part of its authorization process and payment methods as specified in this chapter.

(4) An inpatient claim payment includes all hospital covered services provided to a client during days the client is eligible. This includes, but is not limited to:

- (a) The inpatient hospital stay;
- (b) Outpatient hospital services, including preadmission, emergency department, and observation services related to an inpatient hospital stay and provided within one calendar day of a client's inpatient hospital stay. These outpatient services must be billed on the inpatient hospital claim;
- (c) Any hospital covered service for which the admitting hospital sends the client to another facility or provider during the client's inpatient hospital stay, and the client returns as an inpatient to the admitting hospital.

(5) The agency's claim payment for an inpatient stay is determined by the payment method. The agency pays hospitals for inpatient hospital covered services provided to clients using the following methods:

Payment Method	General Description of Payment Formula	WAC Reference
DRG (Diagnostic Related Group)	DRG specific relative weight times hospital specific DRG rate times maximum service adjustor	182-550-3000
Per Diem	Hospital-specific daily rate for the service (psych, rehab, detox, or CUP) times covered allowable days	182-550-2600 and 182-550-3381

Payment Method	General Description of Payment Formula	WAC Reference
Single Case Rate	Hospital specific bariatric case rate per stay	182-550-3470
Fixed Per Diem for Long Term Acute Care (LTAC)	Fixed LTAC rate per day times allowed days plus ratio of cost to charges times allowable covered ancillaries not included in the daily rate	182-550-2595 and 182-550-2596
Ratio of Costs-to-Charges (RCC)	RCC times billed covered allowable charges	182-550-4500
Cost Settlement with Ratio of Costs-to-Charges	RCC times billed covered allowable charges (subject to hold harmless and other settlement provisions of the Certified Public Expenditure program)	182-550-4650 and 182-550-4670
Cost Settlement with Weighted Costs-to-Charges (WCC)	WCC times billed covered allowable charges subject to Critical Access Hospital settlement provisions	182-550-2598
Military	Depending on the revenue code billed by the hospital: • RCC times billed covered allowable charges; and • Military subsistence per diem.	182-550-4300
Administrative Day	Standard administrative day rate times days authorized by the agency combined with RCC times ancillary charges that are allowable and covered for administrative days	182-550-3381

(6) For claims paid using the DRG method, the payment may not exceed the billed amount.

(7) The agency may adjust the initial allowable calculated for a claim when one or more of the following occur:

(a) A claim qualifies as a high outlier (see WAC 182-550-3700);

(b) A claim is paid by the DRG method and a client transfers from one acute care hospital or distinct unit per WAC 182-550-3600;

(c) A client is not eligible for a Washington apple health program on one or more days of the hospital stay;

(d) A client has third-party liability coverage at the time of admission to the hospital or distinct unit;

(e) A client is eligible for Part B medicare, the hospital submitted a timely claim to medicare for payment, and medicare has made a payment for the Part B hospital charges; or

(f) ~~(A client is discharged from an inpatient hospital stay and, within fourteen calendar days, is readmitted as an inpatient to the same hospital or an affiliated hospital. The agency or its designee performs a retrospective utilization review (see WAC 182-550-1700) on the initial admission and the readmission(s) to determine which inpatient hospital stay(s) qualify for payment.~~

~~(g) A readmission is due to a complication arising from a previous admission (e.g., provider preventable condition). The agency or its designee performs a retrospective utiliza-~~

~~tion review to determine if both admissions are appropriate and qualify for individual payments;~~

~~(h)) The agency identifies an enhanced payment due to a provider preventable condition, hospital-acquired condition, serious reportable event, or a condition not present on admission.~~

(8) In response to direction from the legislature, the agency may change any one or more payment methods outlined in chapter 182-550 WAC for the purpose of achieving the legislature's targeted expenditure levels. The legislative direction may take the form of express language in the Biennial Appropriations Act or may be reflected in the level of funding appropriated to the agency in the Biennial Appropriations Act. In response to this legislative direction, the agency may calculate an adjustment factor (known as an "inpatient adjustment factor") to apply to inpatient hospital rates.

(a) The inpatient adjustment factor is a specific multiplier calculated by the agency and applied to existing inpatient hospital rates to meet targeted expenditure levels as directed by the legislature.

(b) The agency will apply the inpatient adjustment factor when the agency determines that its expenditures on inpatient hospital rates will exceed the legislature's targeted expenditure levels.

(c) The agency will apply any such inpatient adjustment factor to each affected rate.

(9) The agency does not pay for a client's day(s) of absence from the hospital.

(10) The agency pays an interim billed hospital claim for covered inpatient hospital services provided to an eligible client only when the interim billed claim meets the criteria in WAC 182-550-2900.

(11) The agency applies to the allowable for each claim all applicable adjustments for client responsibility, any third-party liability, medicare payments, and any other adjustments as determined by the agency.

(12) The agency pays hospitals in designated bordering cities for allowed covered services as described in WAC 182-550-3900.

(13) The agency pays out-of-state hospitals for allowed covered services as described in WAC 182-550-4000.

(14) The agency's annual aggregate payments for inpatient hospital services, including payments to state-operated hospitals, will not exceed the estimated amounts that the agency would have paid using medicare payment principles.

(15) When hospital ownership changes, the agency's payment to the hospital will not exceed the amount allowed under 42 U.S.C. Section 1395x (v)(1)(O).

(16) Hospitals participating in the Washington apple health program must annually submit to the agency:

(a) A copy of the hospital's CMS medicare cost report (Form 2552 version currently in use by the agency) that is the official "as filed" cost report submitted to the medicare fiscal intermediary; and

(b) A disproportionate share hospital (DSH) application if the hospital wants to be considered for DSH payments. See WAC 182-550-4900 for the requirements for a hospital to qualify for a DSH payment.

(17) Reports referred to in subsection (16) of this section must be completed according to:

- (a) Medicare's cost reporting requirements;
- (b) The provisions of this chapter; and
- (c) Instructions issued by the agency.

(18) The agency requires hospitals to follow generally accepted accounting principles.

(19) Participating hospitals must permit the agency to conduct periodic audits of their financial records, statistical records, and any other records as determined by the agency.

(20) The agency limits payment for private room accommodations to the semiprivate room rate. Room charges must not exceed the hospital's usual and customary charges to the general public as required by 42 C.F.R. Sec. 447.271.

(21) For a client's hospital stay that involves regional support network (RSN)-approved voluntary inpatient or involuntary inpatient hospitalizations, the hospital must bill the agency for payment. When the hospital contracts directly with the RSN, the hospital must bill the RSN for payment.

(22) For psychiatric hospitals and psychiatric hospital units, when a claim groups to a DRG code that pays by the DRG method, the agency may manually price the claim at the hospital's psychiatric per diem rate.

NEW SECTION

WAC 182-550-3840 Payment adjustment for potentially preventable readmissions. (1) The medicaid agency adjusts the payment rate to a hospital with an excessive number of potentially preventable readmissions (PPRs), using the criteria described in subsection (4) of this section. The agency calculates the number of excess PPRs using a risk-adjusted comparison, as described in subsection (5) of this section, between the actual and expected number of PPRs attributable to a hospital, and prospectively reduces the payment.

(2) Payment reductions under this section do not apply to critical access hospitals under WAC 182-550-2598; however, critical access hospital claims are included in the PPR analysis.

(3) The following definitions and those found in chapter 182-500 WAC apply to this section:

(a) "Actual PPR chains" means the number of PPR chains attributable to a hospital, based on the PPR analysis.

(b) "Excess PPR chains" means the difference between a hospital's actual PPR chains and the expected PPR chains, not to be less than 0.

(c) "Expected PPR chains" means the number of PPR chains expected for a hospital, based on the hospital's mix of services provided and clients served in the PPR analysis.

(d) "Excess readmission payments" means a hospital's number of excess readmissions multiplied by the average payments per PPR chain.

(e) "Initial admission" means an admission to a hospital that is not identified as a PPR that is followed by a PPR for the same recipient within thirty days, as determined by the PPR software under standard settings.

(f) "Nonqualifying admission" means an admission excluded from the determination of readmissions by the PPR

software under standard settings. Nonqualifying admissions exclude initial admissions, only admissions, and PPRs.

(g) "Only admission" means an admission that is not a PPR, an initial admission, or other nonqualifying admission, as determined by the PPR software under standard settings.

(h) "Potentially preventable readmission (PPR)" means a readmission meeting the criteria in subsection (4) of this section that follows a prior discharge from a hospital within thirty days for the same recipient, as determined by the PPR software under standard settings. A PPR can occur at the same hospital as the initial readmission or at a different hospital.

(i) "Potentially preventable readmission chain" or "PPR chain" means the collection of one or more PPRs attributable to an initial admission.

(j) "PPR analysis" means the historical claims data processed by the PPR software under standard settings used to determine each hospital's excess PPR chains, as described in subsection (5) of this section.

(k) "PPR software" means the software created and maintained by the 3M™ Corporation and currently used by the agency to identify PPRs. This software is programmed to include admission inclusion and exclusion criteria and factors in an adjustment for pediatric admissions and those admissions with a mental health diagnosis code, but are not classified as a mental health admission.

(l) "Readmission reduction factor" means a prospective reduction to inpatient payment rates based on the excess readmissions payments divided by the total hospital inpatient payments in the PPR analysis. The agency will consider a cap on this reduction to the inpatient payment rate each year.

(4) Readmission criteria. A PPR is an inpatient readmission within thirty days after discharge that is clinically related to the initial admission, as defined by the PPR software using standard settings. A PPR meets the following criteria:

(a) The readmission is potentially preventable through appropriate care consistent with accepted standards in the prior discharge or during the postdischarge follow-up period;

(b) The readmission is for a condition or procedure related to the care provided during the prior discharge or during the period immediately after the prior discharge;

(c) The PPR chain has one or more readmissions that are clinically related to the initial admission. The first readmission is within thirty days after the initial admission, and the thirty-day time frame begins again at the discharge of the most recent readmission; and

(d) The readmission is to the same or to any other hospital.

(e) For the purposes of determining PPRs, certain services and circumstances are excluded from the analysis including, but not limited to:

(i) Leukemia;

(ii) Lymphoma;

(iii) Chemotherapy;

(iv) Neonatal admission;

(v) Hospitalization with a discharge status of "left against medical advice";

(vi) Admission to an acute care hospital for clients assigned to the base APR DRG for rehabilitation, aftercare, and convalescence;

(vii) Same-day transfer to an acute care hospital for non-acute care (for example: Hospice care);

(viii) Malignancy and selected disorders or diseases with chemotherapy or radiotherapy procedures (for example: Connective tissue or coagulation and platelet disorders); and

(ix) Out-of-state admission.

(5) Methodology to determine excess readmissions.

(a) The agency's analysis is based on the 3M™ Health Information Systems Potentially Preventable Readmissions Classification System under standard settings currently used by the agency.

(b) The following readmissions are excluded from the PPR analysis prior to processing the claims data through the PPR software:

(i) Enrollees in state-only programs;

(ii) Dually eligible medicare/medicaid enrollees;

(iii) Mental health and chemical dependency claims covered by the division of behavioral health and recovery (DBHR); and

(iv) Claims occurring at out-of-state, noncritical border hospitals.

(c) Nonqualifying admissions identified by the PPR software under standard settings are excluded from the determination of excess PPR chains.

(d) The following claims are also excluded from the determination of excess PPR chains:

(i) Trauma claims qualifying for supplemental payments for approved trauma service centers under WAC 182-550-5450;

(ii) Newborn cases with the mother's patient information reported in the claim;

(iii) Newborn jaundice cases; and

(iv) Transplant diagnosis-related group (DRG) initial admissions or admissions within one hundred eighty days of a transplant DRG.

(e) The agency will prospectively apply a readmission reduction factor to inpatient rates for dates of service provided on January 1, 2016, through June 30, 2016, based on a PPR analysis consisting of the following claims data:

(i) PPR analysis will consist of fee-for-service (FFS) and managed care claims data, including claims denied under the legacy readmission policy under WAC 182-550-3000, and excluding the claims described in (b) of this subsection.

(ii) PPR analysis claim services dates will consist of discharge dates within state fiscal year 2014 (July 1, 2013, through June 30, 2014), with the following exceptions:

(A) PPR analysis will include PPRs with a discharge date after state fiscal year 2014 that were in a PPR chain with an initial admission discharge date in state fiscal year 2014.

(B) PPR analysis will exclude PPRs with a discharge date in state fiscal year 2014 that were in a PPR chain with an initial admission discharge date before state fiscal year 2014.

(iii) A readmission reduction factor for each hospital is based on the hospital's excess readmission payments divided by the total hospital inpatient payments in the PPR analysis.

(f) The agency will annually update the readmission reduction factors on July 1st, starting on July 1, 2016, based on a PPR analysis consisting of the following claims data:

(i) PPR analysis will consist of FFS and managed care claims data, including claims denied under the legacy read-

mission policy under WAC 182-550-3000, and excluding the claims described in (b) of this subsection.

(ii) PPR analysis claim services dates will consist of discharge dates within the calendar year prior to the July 1st effective date (for readmission reduction factors effective July 1, 2016, the PPR analysis will be based on claims with discharge dates in calendar year 2015), with the following exceptions:

(A) PPR analysis will include PPRs with a discharge date after the calendar year that were in a PPR chain where the initial admission discharge date was in the calendar year.

(B) PPR analysis will exclude PPRs with a discharge date in the calendar year that were in a PPR chain where the initial admission discharge date was before the calendar year.

(iii) A readmission reduction factor for each hospital is based on the hospital's excess readmission payments divided by the total hospital inpatient payments in the PPR analysis.

WSR 15-19-161

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed September 23, 2015, 10:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-07-045 and 15-07-046.

Title of Rule and Other Identifying Information: WAC 182-550-2900 Payment limits—Inpatient hospital services.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on October 27, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than October 28, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Amber Loughheed by October 20, 2015, e-mail amber.loughheed@hca.wa.gov, (360) 725-1349, TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is striking WAC 182-550-2900 (2)(f), which states that the agency will not pay for two hospitalizations within fourteen days for the same client in certain cases. The amendment aligns with amendments proposed under WSR 15-19-159 which will implement a population-based, data-driven approach to reduce hospital readmission rates and related costs.

The agency is adding WAC 182-550-2900 (2)(i). The amendment aligns with amendments proposed under WSR 15-19-157. The agency will no longer pay for early deliveries before thirty-nine weeks of gestation unless medically neces-

sary, including inductions and cesarean sections. The American College of Obstetricians and Gynecologists advises against these deliveries as they can increase the risk of significant [significant] complications for the mother and the baby.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud/Chantelle Diaz, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1408/(360) 725-1842; Implementation and Enforcement: Gail Kreiger, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1681.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative [rules] review committee has not requested the filing of a small business economic impact statement, and these rules do not impose a disproportionate cost impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

September 23, 2015

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

WAC 182-550-2900 Payment limits—Inpatient hospital services. (1) To be eligible for payment for covered inpatient hospital services, a hospital must:

(a) Have a core-provider agreement with the medicaid agency; and

(b) Be an in-state hospital, a bordering city hospital, a critical border hospital, or a distinct unit of ~~((such a)) that hospital, ((and meet the definition))~~ as defined in WAC 182-550-1050; or

(c) Be an out-of-state hospital that meets the conditions in WAC 182-550-6700.

(2) The agency does not pay for any of the following:

(a) Inpatient care or services, or both, provided in a hospital or distinct unit to a client when a managed care organization (MCO) plan is contracted to cover those services.

(b) Care or services, or both, provided in a hospital or distinct unit provided to a client enrolled in the hospice program, unless the care or services are completely unrelated to the terminal illness that qualifies the client for the hospice benefit.

(c) Ancillary services provided in a hospital or distinct unit unless explicitly spelled out in this chapter.

(d) Additional days of hospitalization on a non-DRG claim when:

(i) Those days exceed the number of days established by the agency or mental health designee ~~((see))~~ under WAC 182-550-2600~~((+))~~, as the approved length of stay (LOS); and

(ii) The hospital or distinct unit has not received ~~((approval))~~ prior authorization for an extended LOS from the agency or mental health designee as specified in WAC 182-550-4300~~((+))~~ (4). The agency may perform a prospective, concurrent, or retrospective utilization review as described in WAC 182-550-1700, to evaluate an extended LOS. A mental health designee may also perform those utilization reviews to evaluate an extended LOS.

(e) Inpatient hospital services when the agency determines that the client's medical record fails to support the medical necessity and inpatient level of care for the inpatient admission. The agency may perform a retrospective utilization review as described in WAC 182-550-1700, to evaluate if the services are medically necessary and are provided at the appropriate level of care.

~~((f)) ((Two separate inpatient hospitalizations if a client is readmitted to the same or an affiliated hospital or distinct unit within fourteen calendar days of discharge and the agency determines one inpatient hospitalization does not qualify for a separate payment. See WAC 182-550-3000.~~

~~((g))~~ A client's day(s) of absence from the hospital or distinct unit.

~~((h)) An inappropriate or~~ (g) A nonemergency transfer of a client. See WAC 182-550-3600 for hospital transfers.

~~((+))~~ (h) Charges related to a provider preventable condition (PPC), hospital acquired condition (HAC), serious reportable event (SRE), or a condition not present on admission (POA). See WAC 182-502-0022.

(i) An early elective delivery as defined in WAC 182-500-0030.

(3) This section defines when the agency considers payment for an interim billed inpatient hospital claim.

(a) When the agency is the primary payer, each interim billed nonpsychiatric claim must:

(i) Be submitted in sixty calendar day intervals, unless the client is discharged ~~((prior to))~~ before the next sixty calendar day interval.

(ii) Document the entire date span between the client's date of admission and the current date of services billed, and include the following for that date span:

(A) All inpatient hospital services provided; and

(B) All applicable diagnosis codes and procedure codes.

(iii) Be submitted as an adjustment to the previous interim billed hospital claim.

(b) When the agency is not the primary payer:

(i) The agency pays an interim billed nonpsychiatric claim when the criteria in (a) of this subsection are met; and

(ii) Either of the following:

(A) Sixty calendar days have passed from the date the agency became the primary payer; or

(B) A client is eligible for both medicare and medicaid and has exhausted the medicare lifetime reserve days for inpatient hospital care.

(c) For psychiatric claims, (a)(i) and (b)(i) of this subsection do not apply.

(4) The agency considers for payment a hospital claim submitted for a client's continuous inpatient hospital admis-

sion of sixty calendar days or less upon the client's formal release from the hospital or distinct unit.

(5) To be eligible for payment, a hospital or distinct unit must bill the agency using an inpatient hospital claim:

(a) ~~((In accordance with))~~ Under the current national uniform billing data element specifications:

(i) Developed by the National Uniform Billing Committee (NUBC);

(ii) Approved or modified, or both, by the Washington state payer group or the agency; and

(iii) In effect on the date of the client's admission.

(b) ~~((In accordance with))~~ Under the current published international classification of diseases clinical modification coding guidelines;

(c) Subject to the rules in this section and other applicable rules;

(d) ~~((In accordance with))~~ Under the agency's published ~~((provider guides))~~ billing instructions and other documents; and

(e) With the date span that covers the client's entire hospitalization. See subsection (3) of this section for when the agency considers and pays an initial interim billed hospital claim and any subsequent interim billed hospital claims;

(f) That requires an adjustment due to, but not limited to, charges that were not billed on the original paid claim (e.g., late charges), through submission of an adjusted hospital claim. Each adjustment to a paid hospital claim must provide complete documentation for the entire date span between the client's admission date and discharge date, and include the following for that date span:

(i) All inpatient hospital services provided; and

(ii) All applicable diagnosis codes and procedure codes; and

(g) With the appropriate ~~((National Uniform Billing Committee-))~~NUBC~~((+))~~ revenue code~~((+))~~ specific to the service or treatment provided to the client.

(6) When a hospital charges multiple rates for an accommodation room and board revenue code, the agency pays the hospital's lowest room and board rate for that revenue code. The agency may request the hospital's charge master. Room charges must not exceed the hospital's usual and customary charges to the general public, as required by C.F.R. §447.271.

(7) The agency allows hospitals an all-inclusive administrative day rate for those days of a hospital stay in which a client no longer meets criteria for the acute inpatient level of care. The agency allows this day rate only when an appropriate placement outside the hospital is not available.

(8) The agency pays for observation services according to WAC 182-550-6000, 182-550-7200, and other applicable rules.

(9) The agency determines its actual payment for an inpatient hospital admission by making any required adjustments from the calculations of the allowed covered charges. Adjustments include:

(a) Client ~~((responsibility))~~ participation (e.g., spend-down);

(b) Any third-party liability amount, including medicare part A and part B; and

(c) Any other adjustments as determined by the agency.

(10) The agency pays hospitals less for services provided to clients eligible under state-administered programs, as provided in WAC 182-550-4800.

(11) All hospital providers must present final charges to the agency according to WAC 182-502-0150.

WSR 15-19-163
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)

[Filed September 23, 2015, 10:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-09-131.

Title of Rule and Other Identifying Information: The securities division proposes to create new rules to codify the renewal application requirements for securities registered by coordination under RCW 21.20.180 and securities registered by qualification under RCW 21.20.210.

Hearing Location(s): Department of Financial Institutions (DFI), 150 Israel Road S.W., Tumwater, WA 98501, on October 28, 2015, at 10:00 a.m.

Date of Intended Adoption: October 29, 2015.

Submit Written Comments to: Jill Valley, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, e-mail jill.valley@dfi.wa.gov, fax (360) 704-7035, by October 27, 2015.

Assistance for Persons with Disabilities: Contact Carolyn Hawkey, P.O. Box 9033, Olympia, WA 98507, TTY (360) 664-8126 or (360) 902-8760.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: An offering of securities may be registered in Washington by coordination under RCW 21.20.180 or by qualification under RCW 21.20.210 for an initial period of twelve months. Pursuant to RCW 21.20.340, securities issuers may apply to renew securities registration for an additional twelve-month period by filing a renewal application. The rule-making proposal would create two new rules to codify the securities division's long-standing requirements for renewal applications.

Reasons Supporting Proposal: The Securities Act of Washington specifies the requirements for filing an initial application to register securities, but it does not specify the requirements for a renewal application. By creating rules to specify the filing requirements for renewal applications, the securities division will provide necessary information to securities issuers.

Statutory Authority for Adoption: RCW 21.20.180, 21.20.210, 21.20.260, 21.20.340, 21.20.450.

Statute Being Implemented: Chapter 21.20 RCW.

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

Name of Proponent: DFI, securities division, governmental.

Name of Agency Personnel Responsible for Drafting: Jill Valley, 150 Israel Road S.W., Tumwater, WA 98501,

(360) 902-8760; Implementation: Scott Jarvis, Director, DFI, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8760; and Enforcement: William Beatty, Director, Securities, 150 Israel Road S.W., Tumwater, WA 98501, (360) 902-8760.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose more than minor costs on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. DFI is not one of the agencies listed in RCW 34.05.328.

September 23, 2015
Scott Jarvis
Director

NEW SECTION

WAC 460-16A-033 Renewal of registration of securities by coordination. (1) An issuer may renew the registration of an offering of securities registered by coordination under RCW 21.20.180 for each additional twelve-month period in which the offering is continuing. To renew an offering, the issuer must file the following with the securities division no later than thirty days prior to the expiration date of the current registration permit:

(a) A completed application on Form U-1 marked "renewal";

(b) A renewal fee of one hundred dollars, as specified in RCW 21.20.340(3);

(c) A copy of the prospectus or offering document that has been amended in accordance with WAC 460-16A-126 to reflect all material changes that affect the offering. The prospectus or offering document must be dated within the past twelve months;

(d) The financial statements required by RCW 21.20.180 (8), dated as of the end of the issuer's most recent fiscal year; and

(e) A sales report, dated as of the most recent practicable date, containing the dollar amount of each class of securities sold in the state during the current registration period.

(2) The registration of an offering of securities shall not be considered renewed until the securities division has issued a permit renewing the registration.

(3) An issuer may increase the amount of securities registered in the state at the time it renews its registration by amending the application form to reflect the increased amount of securities to be registered and paying the fee specified in RCW 21.20.340(3) to register the additional amount of securities.

NEW SECTION

WAC 460-16A-036 Renewal of registration of securities by qualification. (1) An issuer may renew the registration of an offering of securities registered by qualification under RCW 21.20.210 for one additional twelve-month period. To renew an offering, the issuer must file the following with the securities division no later than thirty days prior to the expiration date of the current registration permit:

(a) A completed application for registration by qualification marked "renewal";

(b) A renewal fee of fifty dollars, as specified in RCW 21.20.340(1);

(c) A copy of the prospectus or offering document that has been amended in accordance with WAC 460-16A-126 to reflect all material changes that affect the offering. The prospectus or offering document must be dated within the past twelve months;

(d) The financial statements specified in RCW 21.20.210 (14), dated as of the end of the issuer's most recent fiscal year. If the issuer's fiscal year ended more than four months prior to the date of application, the issuer should submit an unaudited interim balance sheet dated within four months prior to the date of the renewal application; and

(e) A sales report, dated as of the most recent practicable date, containing the dollar amount of each class of securities sold in the state during the current registration period.

(2) The registration of an offering of securities shall not be considered renewed until the securities division has issued a permit renewing the registration.

(3) An issuer may increase the amount of securities registered in the state at the time it renews its registration by amending the application form to reflect the increased amount of securities to be registered and paying the fee specified in RCW 21.20.340(1) to register the additional amount of securities, provided that the total offering amount does not exceed any offering amount limitations to which the offering is subject.

WSR 15-19-164

PROPOSED RULES

LIQUOR AND CANNABIS

BOARD

[Filed September 23, 2015, 11:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-094.

Title of Rule and Other Identifying Information: WAC 314-02-090 What is a nonprofit arts organization license?

Hearing Location(s): Washington State Liquor Control [and Cannabis] Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on November 4, 2015, at 10:00 a.m.

Date of Intended Adoption: November 18, 2015.

Submit Written Comments to: Karen McCall, P.O. Box 43098, Olympia, WA 98504, e-mail rules@lcb.wa.gov, fax (360) 664-9689, by November 4, 2015.

Assistance for Persons with Disabilities: Contact Karen McCall by November 4, 2015, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is the result of a stakeholder petition for rule making. The stakeholder requested nonprofit arts organization be allowed to have alcohol consumption in the seating areas during performances.

Reasons Supporting Proposal: Alcohol consumption is currently allowed in the seating areas during performances of these venues if a caterer licensee is providing alcohol service. There is no reason to prohibit the nonprofit arts organization licensee from providing alcohol consumption in the seating areas during performances.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.495.

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

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Becky Smith, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Chief Enforcement, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not required.

A cost-benefit analysis is not required under RCW 34.05.328.

September 23, 2015

Jane Rushford
Chairman

AMENDATORY SECTION (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

WAC 314-02-090 What is a nonprofit arts organization license? (1) Per RCW 66.24.495, this license allows a bona fide nonprofit organization to sell beer, wine, and spirits by the individual serving in conjunction with artistic or cultural exhibitions or performances.

(2) The nonprofit organization must be organized and operated for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs for viewing by the general public. See RCW 66.24.495(2) for specific organizational requirements.

(3) Alcohol sales and consumption may ~~((only))~~ occur in the seating areas during performances and in the lobby area and/or restricted bar area of the premises prior to the commencement of an exhibition or performance and during intermission.

~~((Alcohol is not allowed in the performance seating areas of the facility.))~~

(4) The annual fee for this license is two hundred fifty dollars.

Preproposal statement of inquiry was filed as WSR 15-15-092.

Title of Rule and Other Identifying Information: WAC 314-55-010 Definitions, 314-55-015 General information about marijuana licenses, 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, etc., 314-55-020 Marijuana license qualifications and application process, 314-55-035 What persons or entities have to qualify for a marijuana license?, 314-55-040 What criminal history might prevent a marijuana license applicant from receiving or keeping a marijuana license?, 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license?, 314-55-050 Reasons the WSLCB may seek denial, suspension, or cancellation of a marijuana license application or license, 314-55-070 Process if the WSLCB denies a marijuana license application, 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license?, 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license?, 314-55-079 What is a marijuana retailer license and what are the requirements and fees related to a marijuana retailer license?, 314-55-080 Medical marijuana endorsement, 314-55-081 Who can apply for a marijuana retailer license?, 314-55-082 Insurance requirements, 314-55-083 What are the security requirements for a marijuana licensee?, 314-55-084 Production of marijuana, 314-55-085 What are the transportation requirements for a marijuana licensee?, 314-55-086 What are the mandatory signs a marijuana licensee must post on a licensed premises?, 314-55-087 What are the recordkeeping requirements for a marijuana licensee?, 314-55-089 What are the tax and reporting requirements for marijuana licensees?, 314-55-092 What if a marijuana licensee fails to report or pay, or reports or pays late?, 314-55-095 Marijuana servings and transaction limitations, 314-55-096 Samples, 314-55-097 Marijuana waste disposal—Liquids and solids, 314-55-099 Standardized scales, 314-55-101 Sampling protocols, 314-55-102 Quality assurance testing, 314-55-103 Good laboratory practice checklist, 314-55-104 Marijuana processor license extraction requirements, 314-55-105 Packaging and labeling requirements, 314-55-110 What are my responsibilities as a marijuana licensee?, 314-55-115 What method of payment can a marijuana licensee use to purchase marijuana?, 314-55-120 Ownership changes, 314-55-130 Change of business name, 314-55-135 Discontinue marijuana sales, 314-55-140 Death or incapacity of a marijuana licensee, 314-55-147 What hours may a marijuana retailer licensee conduct sales?, 314-55-155 Advertising, 314-55-160 Objections to marijuana license applications, 314-55-165 Objections to marijuana license renewals, 314-55-185 Does the WSLCB have the right to inspect my premises or vehicle licensed to produce, process, sell or transport marijuana?, 314-55-200 How will the WSLCB identify marijuana, useable marijuana, marijuana concentrates, and marijuana infused products during checks of licensed businesses?, 314-55-210 Will the WSLCB seize or confiscate marijuana, marijuana concentrates, useable marijuana, and marijuana infused products?, 314-55-220 What is the process once the WSLCB summarily orders marijuana, useable marijuana, marijuana concentrates, or mari-

WSR 15-19-166

PROPOSED RULES

LIQUOR AND CANNABIS

BOARD

[Filed September 23, 2015, 11:21 a.m.]

Original Notice.

juana infused products of a marijuana licensee to be destroyed?, 314-55-230 What are the procedures the WSLCB will use to destroy or donate marijuana, useable marijuana, marijuana concentrates and marijuana infused products to law enforcement?, 314-55-310 Transportation license, 314-55-410 Cooperatives, 314-55-415 What are the recordkeeping and reporting requirements for cooperatives?, 314-55-430 Qualifying patient or designated provider extraction requirements, 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a WSLCB statute or regulation?, 314-55-506 What is the process once the WSLCB summarily suspends a marijuana license?, 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license?, 314-55-508 Review of orders on stay, 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation?, 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule?, 314-55-520 Group 1 violations against public safety, 314-55-525 Group 2 regulatory violations, 314-55-530 Group 3 license violations, 314-55-535 Group 4 marijuana producer and/or processor violations, 314-55-537 Group 5 license violations, and 314-55-540 Information about marijuana license suspensions.

Hearing Location(s): Spokane Convention Center, Spokane, Washington, on November 3, 2015, at 6:30 p.m.; at Central Washington University, Ellensburg, Washington, on November 4, 2015, at 6:30 p.m.; at Clark College, Glazer Student Center, Vancouver, Washington, on November 9, 2015, at 6:30 p.m.; at the Best Western Hotel, Seahawk Ballroom, Tacoma, Washington, on November 12, 2015, at 6:30 p.m.; at the Seattle City Hall, Bertha Knight Landis Room, Seattle, Washington, on November 16, 2015, at 6:30 p.m.; and at Everett Community College, Jackson Conference Center, Everett, Washington, on November 19, 2015, at 6:30 p.m.

Date of Intended Adoption: December 2, 2015.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail rules@lcb.wa.gov, fax (360) 664-9689, by November 3, 2015.

Assistance for Persons with Disabilities: Contact Karen McCall by November 3, 2015, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules are needed to implement legislation that passed in the 2015 legislative session (SB 5052 and HB 2136). SB 5052, known as the Cannabis Patient Protection Act, aligns the medical marijuana market with the existing recreational market.

Reasons Supporting Proposal: Marijuana license applicants and licensees need clarification of the legislation passed in the 2015 legislative session.

Statutory Authority for Adoption: RCW 69.50.342, 69.50.345.

Statute Being Implemented: RCW 69.50.331; changes to chapter 69.51A RCW; new sections in chapter 69.50 RCW.

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

Name of Proponent: Washington state liquor and cannabis board (WSLCB), governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation:

Becky Smith, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Chief Enforcement, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Chapter 314-55 WAC, Marijuana licenses, application process, requirements and reporting.

1. Description of Reporting, Recordkeeping and Other Compliance Requirements of the Proposed Rule:

The following additions have been made to the rules:

(a) Any vehicle assigned to transport marijuana is considered an extension of the licensed premises. This allows enforcement explicit authority to monitor vehicles transporting marijuana. No real change for business owners.

(b) New applicants for marijuana licenses and applicants who change their location must post a notice on their premises notifying the public that they intend to sell marijuana at that location.

(c) New applicants and their financiers must maintain residency in Washington for six months prior to applying. Previous requirement was three months.

(d) Local authorities may adopt ordinances reducing the one thousand foot rule for restricted entities except for elementary and secondary schools and playgrounds. Applicants must provide proof of ordinances if restricted entities are less than one thousand feet from the proposed premises.

(e) Outdoor producers must be physically separated from other outdoor grows by a minimum of twenty feet. They cannot share walls and fences.

(f) Prohibits characterizing flavor for marijuana infused inhalants related to fruit, chocolate, vanilla, honey, candy, cocoa, or dessert. May use mint flavors.

(g) Adds a free medical endorsement for retailers to sell marijuana for medical use. Applicants must:

i. Follow all rules adopted by the department of health (DOH).

ii. Have a consultant on staff in compliance with DOH rules.

iii. Maintain an assortment of medical marijuana in the second year, the retailer must have not less than twenty-five percent of products designated for medical use.

iv. Enter qualifying patients into a database established by DOH.

v. Issue recognition cards to qualifying patients.

vi. Keep copies of patients' recognition cards, marijuana provided free to patients, and tax exempt sales records for three years.

(h) Specifies prohibited plant growth regulators.

(i) Eliminates tax payments for marijuana producers and processors (increases exempt taxes for retailers from twenty-five - thirty-seven percent).

(j) Include types of solvents used for extraction on retail labels.

(k) Penalties for failure to comply with rules have been modified.

(l) Adds a transportation license for marijuana.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements:

(a) Training for medical marijuana rules to be provided by a DOH contractor.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor and Increased Administrative Costs:

(b) Medical marijuana retailers will have to have a printer, a laminator, and a bar code scanner to create and check registration cards.

(c) Medical marijuana retailers will need to send their staff for consultation training by a DOH contractor.

4. Will Compliance with the Rules Cause Businesses to Lose Sales or Revenue? No, businesses that choose to have a medical marijuana retail license are likely to increase sales and revenue. However, introducing more stores may have an impact on sales for existing retail stores.

5. Costs of Compliance for Small Businesses Compared with the Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

a. Cost per employee;

b. Cost per hour of labor; or

c. Cost per one hundred dollars of sales.

d. Business card laminator: \$35 on Amazon—\$17 per 25 laminate inserts.

e. Printers: \$25-\$100 on Amazon.

f. Bar code scanners: \$18-\$50 on Amazon.

g. Costs of consultant class—to be determined by DOH.

All of the marijuana businesses are virtually small businesses. The additional costs above are the same for all businesses, regardless of size.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So: The legislature mandated the changes for medical marijuana. DOH has done an excellent job reducing costs to agencies.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: Most marijuana businesses are small businesses. They are invited to provide feedback to the rules during the rule-making process.

8. A List of Industries That Will Be Required to Comply with the Rule: All licensed marijuana producers, processors, retailers, and transporters will be required to comply with these rules.

9. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result of Compliance with the Proposed Rule: Indeterminate - it is likely that adding medical marijuana to the legal marketplace will create a high number of additional jobs. We are working with a consultant to evaluate the approximate increase in business when medical marijuana is added to the legal market.

WAC 314-55-310 Transportation license.

1. Description of Reporting, Recordkeeping and Other Compliance Requirements of the Proposed Rule: Marijuana transportation licensees are allowed to physically

transport or deliver marijuana products between marijuana businesses within the state. Licensees must:

(a) Apply for and be issued a transportation license from the WSLCB.

(b) Have a transport manifest.

- Information must be kept with the product at all times.

(c) Records of transportation:

- Kept for minimum of three years.
- Copies of transportation manifest for all deliveries.
- Transportation log documenting the chain of custody.
- Bank statements.
- Accounting and tax records.
- Records of financial transactions.
- Employee records.

(d) Transportation of product.

- Only transportation licensee or employee, over twenty-one, may transport marijuana.
- Marijuana must be in sealed packaging or container.
- Sealed packages or containers cannot be opened during transport.
- Marijuana must be in locked, safe and secure storage compartment that is secured to the inside of the vehicle.
- Product must be delivered or returned to shipper within twenty-four hours from time of pickup.
- Live plants may be transported in a fully enclosed trailer or secured area within the inside of the van or box truck.
- All transport vehicles assigned to transport is an extension of the licensed premises and subject to inspection by enforcement officer of the WSLCB.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: The type of professional services needed to comply with the obligations discussed in question one would be bookkeeping and accounting. Businesses may also need legal assistance for business purposes.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor and Increased Administrative Costs: Indeterminate - there are currently no legally established marijuana transportation licenses in the state.

Transportation license will need vehicles and employees for transport; they may also need administrative personnel for routine business practice to include creating manifest and using the traceability system.

4. Will Compliance with the Rules Cause Businesses to Lose Sales or Revenue? Indeterminate - there are currently no legally established marijuana transportation licenses in the state. Rules were drafted based on similar business practices of current marijuana producers, processors and retailers.

5. Costs of Compliance for Small Businesses Compared with the Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to

Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

Indeterminate - there are currently no legally established marijuana transportation licenses in the state. The transportation license rules were established to align it with the existing marijuana rules for producer[s], processors and retailers.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So: The requirements in the rules are designed to comply with section 501 of the SHB 2136 mandate.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: Stakeholders will be able to comment on the proposed rules during the rule-making process.

8. A List of Industries That Will Be Required to Comply with the Rule: All licensed marijuana transportation licensees will be required to comply with these rules.

9. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result of Compliance with the Proposed Rule: Indeterminate - there are currently no legally established marijuana transportation licenses in the state. The number of jobs created or lost will depend on the number of applications received and licenses issues [issued].

WAC 314-55-515 to 314-55-540, administrative penalty guidelines for marijuana business.

1. Description of Reporting, Recordkeeping and Other Compliance Requirements of the Proposed Rule: When it is believed that a licensee has committed a violation of the WSLCB statute or regulation, an administrative violation notice (AVN) is issued. A recommended penalty accompanies the violation. The WSLCB has divided the penalty structure into five groups.

1. Public safety.
2. Regulatory.
3. License violations.
4. Marijuana producer and processor violations.
5. Transportation.

Penalty guidelines for each group were revamped to include the following:

- Added a group five violation list to include the new transportation license.
- Defining inventory as it pertains to destruction.
- Eliminated suspension times from producers and processors.
- Added violation types to distinguish violations from each other.
- Eliminated duplicate violations in multiple categories.
- Brought penalties in line with other offenses.

2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements: The type of professional services needed to comply with the obligations discussed in question one would be legal assistance for violation defense. However, legal assistance is not required in order to negotiate or contest a violation.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor and Increased Administrative Costs: None, unless there is a violation of statutes and rules apply. The licensee will pay a fine, suspension and/or destruction of product.

4. Will Compliance with the Rules Cause Businesses to Lose Sales or Revenue? Penalties can cause a business to [lose] sales or revenue; however, the draft rules align with the previous rules and their intent, as most monetary penalties remain the same. New violation types align with current violation category.

5. Costs of Compliance for Small Businesses Compared with the Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs:

- a. Cost per employee;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

None. Penalties are the same regardless of the size of the business.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So: The WSLCB took into account the extent of retail penalties compared to nonretail penalties. We cannot stop growth of plants without destroying them. WSLCB eliminated the suspension option for nonretail licensees.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: Stakeholders will be able to comment on the proposed rules during the rule-making process.

8. A List of Industries That Will Be Required to Comply with the Rule: All licensed marijuana licensees will be required to comply with these rules.

9. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result of Compliance with the Proposed Rule: None.

A copy of the statement may be obtained by contacting Karen McCall, P.O. Box 43080, Olympia, WA 98504, phone (360) 664-1631, fax (360) 664-9689, e-mail rules@lcb.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328.

September 23, 2015

Jane Rushford

Chairman

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-010 Definitions. Following are definitions for the purpose of this chapter. Other definitions are in RCW 69.50.101.

(1) "Applicant" or "marijuana license applicant" means any person or business entity who is considered by the ~~((board))~~ WSLCB as a true party of interest in a marijuana license, as outlined in WAC 314-55-035. However, for purposes of determining an application's priority under RCW

69.50.331 (1)(a), only the person or business entity that is applying for the license will be considered the applicant.

(2) "Batch" means a quantity of marijuana-infused product containing material from one or more lots of marijuana.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

(5) "Consultant" means an expert who provides advice or services in a particular field, whether a fee is charged or not. A consultant who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year is a true party of interest and subject to the requirements of WAC 314-55-035. A consultant who exercises any control over an applicant's or licensee's business operations is also subject to the requirements of WAC 314-55-035(4).

(6) "Cooperative" means a group of more than one, but no more than four qualified medical marijuana patients and/or designated providers who share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative.

(7) "Domicile" means a person's true, fixed, primary permanent home and place of habitation and the tax parcel on which it is located. It is the place where the person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

(8) "Elementary school" means a school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

~~((7))~~ (9) "Employee" means any person performing services on a licensed premises for the benefit of the licensee whether or not such person is compensated by the licensee.

~~((8))~~ (10) "Financier" means any person or entity, other than a banking institution, that has made or will make an investment in the licensed business. A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

~~((9))~~ (11) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

~~((10))~~ (12) "Intermediate product" means marijuana flower lots or other material lots that have been converted by a marijuana processor to a marijuana concentrate or marijuana-infused product that must be further processed prior to retail sale.

~~((11))~~ (13) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

~~((12))~~ (14) "Licensed premises" means all areas of a premises under the legal control of the licensee and all areas immediately adjacent and available to or used by customers or employees in the conduct of business operations. Any vehicle assigned for the purposes of transporting marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products shall be considered an extension of the licensed premises.

(15) "Licensee" or "marijuana licensee" means any person or entity that holds a marijuana license, or any person or entity who is a true party of interest in a marijuana license, as outlined in WAC 314-55-035.

~~((13))~~ (16) "Lot" means either of the following:

(a) The flowers from one or more marijuana plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more marijuana plants. A single lot of trim, leaves, or other plant matter cannot weigh more than fifteen pounds.

~~((14))~~ (17) "Marijuana strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

~~((15))~~ (18) "Member" means a principal or governing person of a given entity, including but not limited to: LLC member/manager, president, vice-president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

~~((16))~~ (19) "Paraphernalia" means items used for the storage or use of usable marijuana, marijuana concentrates, or marijuana-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bongs, and storage containers. Items for growing, cultivating, and processing marijuana, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

~~((17))~~ (20) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, insecticides, and cloning agents.

~~((18))~~ (21) "Perimeter" means a property line that encloses an area.

~~((19))~~ (22) "Plant" means a marijuana plant.

(23) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

~~((20))~~ (24) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

~~((21))~~ (25) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

~~((22))~~ (26) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

~~((23))~~ (27) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable non-profit organization, city, county, state, or federal government.

~~((24))~~ (28) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

~~((25))~~ (29) "Secondary school" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

~~((26))~~ (30) "Selling price" means the same meaning as in RCW 82.08.010, except that when the product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value. Selling price means the true value of the product sold as determined or agreed to by the ~~((board))~~ WSLCB. For purposes of this subsection:

(a) "Product" means marijuana, marijuana concentrates, usable marijuana, and marijuana-infused products; and

(b) "True value" means market value based on sales at comparable locations in the state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. In the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributed to the product.

~~((27))~~ (31) "Unit" means an individually packaged marijuana-infused solid or liquid product meant to be eaten or swallowed, not to exceed ten servings or one hundred milligrams of active tetrahydrocannabinol (THC), or Delta 9.

(32) "WSLCB" means the Washington state liquor and cannabis board.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-015 General information about marijuana licenses. (1) A person or entity must meet certain qualifications to receive a marijuana license, which are continuing qualifications in order to maintain the license.

(2) All applicants and employees working in each licensed establishment must be at least twenty-one years of age. No one under twenty-one years of age is allowed to enter

or remain on a marijuana licensed premises except as provided in RCW 69.50.357.

(3) Minors restricted signs must be posted at all marijuana licensed premises.

(4) A marijuana license applicant may not exercise any of the privileges of a marijuana license until the ~~((board))~~ WSLCB approves the license application.

(5) The ~~((board))~~ WSLCB will not approve any marijuana license for a location where law enforcement access, without notice or cause, is limited. This includes a personal residence.

(6) The ~~((board))~~ WSLCB will not approve any marijuana license for a location on federal lands.

(7) The ~~((board))~~ WSLCB will not approve any marijuana retailer license for a location within another business. More than one license could be located in the same building if each licensee has their own area separated by full walls with their own entrance. Product may not be commingled.

(8) Every marijuana licensee must post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the ~~((board))~~ WSLCB in a conspicuous place on the premises.

(9) In approving a marijuana license, the ~~((board))~~ WSLCB reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a marijuana license.

(10) A marijuana producer, processor or retailer licensed by the ~~((board shall))~~ WSLCB must conduct the production, processing, storage, and sale of marijuana-infused products using sanitary practices ~~((and ensure marijuana-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC))~~.

(11) A marijuana processor licensed by the board must ensure marijuana-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(12) Marijuana licensees may not allow the consumption of marijuana or marijuana-infused products on the licensed premises.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, etc. (1) No industry member or marijuana retailer shall enter into any agreement which causes undue influence over another retailer or industry member. This rule shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of marijuana that are made in accordance with usual and common business practice and that are otherwise in compliance with the rules.

(2) No marijuana producer or processor shall advance and no marijuana ~~((retailer))~~ licensee shall receive money or

moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;
- (f) Free product of any kind except as allowed by WAC 314-55-083; or
- (g) Treats or services of any nature whatsoever except such services as are authorized in this rule.

(3) "Industry member" means a licensed marijuana producer, marijuana processor, marijuana retailer, their authorized representatives, and any affiliates, subsidiaries, officers, partners, financiers, agents, employees, and representatives of any industry member.

(4) No industry member or employee thereof shall sell to any (~~retail~~) marijuana licensee or solicit from any such licensee any order for any marijuana tied in with, or contingent upon, the (~~retailer's~~) licensee's purchase of some other marijuana, or any other merchandise, paraphernalia, property, or service.

(5) If the (~~board~~) WSLCB finds in any instance that any licensee has violated this regulation, then all licensees involved shall be held equally responsible for such violation.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-020 Marijuana license qualifications and application process. Each marijuana license application is unique and investigated individually. The (~~board~~) WSLCB may inquire and request documents regarding all matters in connection with the marijuana license application. The application requirements for a marijuana license include, but are not necessarily limited to, the following:

(1) Per RCW 69.50.331, the (~~board~~) WSLCB shall send a notice to cities and counties, and may send a notice to tribal governments or port authorities regarding the marijuana license application. The local authority has twenty days to respond with a recommendation to approve or an objection to the applicant, location, or both.

(2) Applicants for a new marijuana producer, processor, or retailer license and those who apply to change their location must display a sign provided by the WSLCB on the outside of the premises to be licensed notifying the public that the premises are subject to an application for a marijuana license. Posting notices must occur within seven days of submitting the location confirmation form for new licenses or the change of location application for existing licensees. The WSLCB may check for compliance with this requirement at its discretion. The sign must:

(a) Not be altered. The licensee must post the sign sent by the WSLCB without changing, adding, or subtracting from the text;

(b) Be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public;

(c) Be of a size sufficient to ensure that it will be readily seen by the public, at a minimum these signs must be eight and one-half by eleven inches;

(d) Be posted within seven business days of the date the notice is sent to the applicant by the WSLCB; and

(e) The notice must be posted for fourteen consecutive days.

(3) The WSLCB will use a priority system to determine the order that marijuana retailers are licensed.

(a) **First priority is given to applicants who:**

(i) Applied to the state liquor and cannabis board for a marijuana retail license prior to July 1, 2014. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing service showing the applicant applied for a retail marijuana license prior to July 1, 2014;

(ii) Operated or were employed by a collective garden before January 1, 2013. To meet this qualification, the applicant must provide the WSLCB with a copy of the master business from department of revenue business licensing service showing the applicant owned a collective garden prior to January 1, 2013, or a pay stub or tax information indicating that the applicant was employed by a collective garden prior to January 1, 2013;

(iii) Have maintained a state business license and municipal business license, as applicable in the relevant jurisdiction. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing service and copies of municipal business licenses from January 1, 2013, through the date of application; and

(iv) Have had a history of paying all applicable state taxes and fees. To meet this qualification, the applicant must provide the WSLCB evidence from the department of revenue that the entity is up to date on all applicable state taxes since January 1, 2013, and that they have paid all applicable fees to the WSLCB for all businesses they are engaged in since January 1, 2013.

(b) **Second priority is given to applicants who:**

(i) Operated or were employed by a collective garden before January 1, 2013. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing service showing the applicant owned a collective garden prior to January 1, 2013, or a pay stub or tax information indicating that the applicant was employed by a collective garden prior to January 1, 2013;

(ii) Have maintained a state business license and municipal business license, as applicable in the relevant jurisdiction. To meet this qualification, the applicant must provide the WSLCB a copy of the master business license from department of revenue business licensing service and copies of municipal business licenses from January 1, 2013, through the date of application; and

(iii) Have had a history of paying all applicable state taxes and fees. To meet this qualification, the applicant must provide the WSLCB evidence from the department of revenue that the entity is up to date on all applicable state taxes since January 1, 2013, and that they have paid all applicable fees to the WSLCB for all businesses they are engaged in

since January 1, 2013, for all businesses they are engaged in since January 1, 2013.

(c) Third priority is given to all other applicants who do not meet the qualifications and experience identified for priority one or two.

(4) All marijuana retail applicants must meet the qualifications required by the WSLCB before they will be granted a license regardless of priority.

(5) The ((board)) WSLCB will verify that the proposed business meets the minimum requirements for the type of marijuana license requested.

((3)) (6) The ((board)) WSLCB will conduct an investigation of the applicants' criminal history and administrative violation history, per WAC 314-55-040 and 314-55-045.

(a) The criminal history background check will consist of completion of a personal/criminal history form provided by the ((board)) WSLCB and submission of fingerprints to a vendor approved by the ((board)) WSLCB. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Financiers will also be subject to criminal history investigations equivalent to that of the license applicant. Financiers will also be responsible for paying all fees required for the criminal history check. Financiers must meet the ~~((three))~~ six month residency requirement.

((4)) (7) The ((board)) WSLCB will conduct a financial investigation in order to verify the source of funds used for the acquisition and startup of the business, the applicants' right to the real and personal property, and to verify the true party(ies) of interest.

((5)) (8) The ((board)) WSLCB may require a demonstration by the applicant that they are familiar with marijuana laws and rules.

((6)) (9) The ((board)) WSLCB may conduct a final inspection of the proposed licensed business, in order to determine if the applicant has complied with all the requirements of the license requested.

((7)) (10) Per RCW 69.50.331 (1)(b), all applicants applying for a marijuana license must have resided in the state of Washington for at least ~~((three))~~ six months prior to application for a marijuana license. All partnerships, employee cooperatives, associations, nonprofit corporations, corporations and limited liability companies applying for a marijuana license must be formed in Washington. All members must also meet the ~~((three))~~ six month residency requirement. Managers or agents who manage a licensee's place of business must also meet the ~~((three))~~ six month residency requirement.

((8)) (11) Submission of an operating plan that demonstrates the applicant is qualified to hold the marijuana license applied for to the satisfaction of the ((board)) WSLCB. The operating plan shall include the following elements in accordance with the applicable standards in the Washington Administrative Code (WAC).

((9)) (12) As part of the application process, each applicant must submit in a format supplied by the ((board))

WSLCB an operating plan detailing the following as it pertains to the license type being sought. This operating plan must also include a floor plan or site plan drawn to scale which illustrates the entire operation being proposed. The operating plan must include the following information:

Producer	Processor	Retailer
Security	Security	Security
Traceability	Traceability	Traceability
Employee qualifications and training	Employee qualifications and training	Employee qualifications and training
Transportation of product including packaging of product for transportation	Transportation of product	Transportation of product
Destruction of waste product	Destruction of waste product	Destruction of waste product
Description of growing operation including growing media, size of grow space allocated for plant production, space allocated for any other business activity, description of all equipment used in the production process, and a list of soil amendments, fertilizers, other crop production aids, or pesticides, utilized in the production process	Description of the types of products to be processed at this location together with a complete description of all equipment to include all marijuana-infused edible processing facility equipment and solvents, gases, chemicals and other compounds used to create extracts and for processing of marijuana-infused products	
Testing procedures and protocols	Testing procedures and protocols	
	Description of the types of products to be processed at this location together with a complete description of processing of marijuana-infused products	
	Description of packaging and labeling of products to be processed	
		What array of products are to be sold and how are the products to be displayed to consumers

After obtaining a license, the license holder must notify the ((board)) WSLCB in advance of any ~~((substantial))~~ change in their operating plan. ~~((Depending on the degree of change,))~~ Prior approval ~~((may be))~~ is required before the change is implemented.

((10)) (13) Applicants applying for a marijuana license must be current in any tax obligations to the Washington state department of revenue and other state agencies, as an individual or as part of any entity in which they have an ownership interest. Applicants must sign an attestation that, under penalty of denial or loss of licensure, that representation is correct.

~~((H1))~~ (14) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements.

~~((H2))~~ (15) Upon failure to respond to the ~~((board))~~ WSLCB licensing and regulation division's requests for information and/or documentation within the timeline provided, the application may be administratively closed or denial of the application will be sought.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-035 What persons or entities have to qualify for a marijuana license? A marijuana license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> All general partners and their spouses. All limited partners and spouses.
Limited liability company	<ul style="list-style-type: none"> All members and their spouses. All managers and their spouses.
Privately held corporation	<ul style="list-style-type: none"> All corporate officers (or persons with equivalent title) and their spouses. All stockholders and their spouses.
Publicly held corporation	<p>All corporate officers (or persons with equivalent title) and their spouses.</p> <p>All stockholders and their spouses.</p>
Multilevel ownership structures	All persons and entities that make up the ownership structure (and their spouses).
<u>Financiers</u>	<u>Any person or entity, other than a banking institution, that has made or will make an investment in the licensed business.</u>

True party of interest	Persons to be qualified
	<u>A financier can be a person or entity that provides money as a gift, loans money to the applicant/business and expects to be paid back the amount of the loan with or without interest.</u>
Any entity or person (inclusive of financiers) that are expecting a percentage of the profits in exchange for a monetary loan or expertise. <u>Financial institutions are not considered true parties of interest.</u>	<p>Any entity or person who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year.</p> <p>Any entity or person who exercises control over the licensed business in exchange for money or expertise.</p> <p>For the purposes of this chapter:</p> <ul style="list-style-type: none"> "Gross profit" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. "Net profit" means gross sales minus cost of goods sold.
Nonprofit corporations	All individuals and spouses, and entities having membership rights in accordance with the provisions of the articles of incorporation or the bylaws.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's pre-bonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(3) **Financiers** - The ~~((board))~~ WSLCB will conduct a financial investigation as well as a criminal background of financiers.

(4) **Persons who exercise control of business** - The ((board)) WSLCB will conduct an investigation of any person or entity who exercises any control over the applicant's business operations. This may include both a financial investigation and/or a criminal history background.

(5) After licensure, a true party of interest, including financiers, must continue to disclose the source of funds for all moneys invested in the licensed business. The WSLCB must approve these funds prior to investing them into the business.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-040 What criminal history might prevent a marijuana license applicant from receiving or keeping a marijuana license? (1) When the ((board)) WSLCB processes a criminal history check on an applicant, it uses a point system to determine if the person qualifies for a license. The ((board)) WSLCB will not normally issue a marijuana license or renew a license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the ((board)) WSLCB will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the ((board)) WSLCB will administratively close the application.

(3) The ((board)) WSLCB may not issue a marijuana license to anyone who has accumulated eight or more points as referenced above. This is a discretionary threshold and it is further recommended that the following exceptions to this standard be applied:

Exception to criminal history point assignment.

(a) Prior to initial license application, two federal or state misdemeanor convictions for the possession only of marijuana within the previous three years may not be applicable to the criminal history points accumulated. All criminal history must be reported on the personal/criminal history form.

(i) Regardless of applicability, failure to disclose full criminal history will result in point accumulation;

(ii) State misdemeanor possession convictions accrued after December 6, 2013, exceeding the allowable amounts of marijuana, usable marijuana, and marijuana-infused products

described in chapter 69.50 RCW shall count toward criminal history point accumulation.

(b) Prior to initial license application, any single state or federal conviction for the growing, possession, or sale of marijuana will be considered for mitigation on an individual basis. Mitigation will be considered based on the quantity of product involved and other circumstances surrounding the conviction.

(4) Once licensed, marijuana licensees must report any criminal convictions to the ((board)) WSLCB within fourteen days.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-045 What marijuana law or rule violation history might prevent an applicant from receiving a marijuana license? The ((board)) WSLCB will conduct an investigation of all applicants' marijuana law or rule administrative violation history. The ((board)) WSLCB will not normally issue a marijuana license to a person, or to an entity with a true party of interest, who has the following violation history; or to any person who has demonstrated a pattern of disregard for laws or rules.

Violation Type (see WAC 314-55-515)	Period of Consideration
<ul style="list-style-type: none"> Three or more public safety violations; 	<ul style="list-style-type: none"> Violations issued within three years of the date the application is received by the board's licensing and regulation division.
<ul style="list-style-type: none"> Four or more regulatory violations; or 	
<ul style="list-style-type: none"> One to four, or more license violations. 	<ul style="list-style-type: none"> Violations issued within the last three years the true party(ies) of interest were licensed.

AMENDATORY SECTION (Amending WSR 14-06-108, filed 3/5/14, effective 4/5/14)

WAC 314-55-050 Reasons the ((board)) WSLCB may seek denial, suspension, or cancellation of a marijuana license application or license. Following is a list of reasons the ((board)) WSLCB may deny, suspend, or cancel a marijuana license application or license. Per RCW 69.50.331, the ((board)) WSLCB has broad discretionary authority to approve or deny a marijuana license application for reasons including, but not limited to, the following:

(1) Failure to meet qualifications or requirements for the specific marijuana producer, processor, or retail license, as outlined in this chapter and chapter 69.50 RCW.

(2) Failure or refusal to submit information or documentation requested by the ((board)) WSLCB during the evaluation process.

(3) The applicant makes a misrepresentation of fact, or fails to disclose a material fact to the ((board)) WSLCB

during the application process or any subsequent investigation after a license has been issued.

(4) Failure to meet the criminal history standards outlined in WAC 314-55-040.

(5) Failure to meet the marijuana law or rule violation history standards outlined in WAC 314-55-045.

(6) The source of funds identified by the applicant to be used for the acquisition, startup and operation of the business is questionable, unverifiable, or determined by the ~~((board))~~ WSLCB to be gained in a manner which is in violation by law.

(7) Denies the ~~((board))~~ WSLCB or its authorized representative access to any place where a licensed activity takes place or fails to produce any book, record or document required by law or ~~((board))~~ WSLCB rule.

(8) Has been denied or had a marijuana license or medical marijuana license suspended or canceled in another state or local jurisdiction.

(9) Where the city, county, tribal government, or port authority has submitted a substantiated objection per the requirements in RCW 69.50.331 (7) and (9).

(10) The ~~((board))~~ WSLCB shall not issue a new marijuana license if the proposed licensed business is within one thousand feet of the perimeter of the grounds of any of the following entities. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the entities listed below:

- (a) Elementary or secondary school;
- (b) Playground;
- (c) Recreation center or facility;
- (d) Child care center;
- (e) Public park;
- (f) Public transit center;
- (g) Library; or
- (h) Any game arcade (where admission is not restricted to persons age twenty-one or older).

(11) A city or county may by local ordinance permit the licensing of marijuana businesses within one thousand feet but not less than one hundred feet of the facilities listed in subsection (10) of this section except elementary and secondary schools, and playgrounds.

If a licensee applies for a marijuana license at a location less than one thousand feet of a recreation center or facility, child care center, public park, public transit center, library, or game arcade, the licensee must provide the WSLCB with a copy of the local ordinance that describes the distance required by the city or county the facility will be located.

(12) Has failed to pay taxes or fees required under chapter 69.50 RCW or failed to provide production, processing, inventory, sales and transportation reports to documentation required under this chapter.

~~((12))~~ (13) Failure to submit an attestation that they are current in any tax obligations to the Washington state department of revenue.

~~((13))~~ (14) Has been denied a liquor license or had a liquor license suspended or revoked in this or any other state.

~~((14))~~ (15) The operating plan does not demonstrate, to the satisfaction of the ~~((board))~~ WSLCB, the applicant is qualified for a license.

~~((15))~~ (16) Failure to operate in accordance with the ~~((board))~~ WSLCB approved operating plan.

~~((16))~~ (17) The ~~((board))~~ WSLCB determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-070 Process if the ~~((board))~~ WSLCB denies a marijuana license application. If the ~~((board))~~ WSLCB denies a marijuana license application, the applicants may:

(1) Request an administrative hearing per chapter 34.05 RCW, the Administrative Procedure Act.

(2) Reapply for the license no sooner than one year from the date on the final order of denial.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license? (1) A marijuana producer license allows the licensee to produce, harvest, trim, dry, cure, and package marijuana into lots for sale at wholesale to marijuana processor licensees and to other marijuana producer licensees. A marijuana producer can also produce and sell marijuana plants, seed, and plant tissue culture to other marijuana producer licensees. Marijuana production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083. An outdoor grow must be physically separated at least twenty feet from another licensed outdoor grow. Outdoor grows cannot share common walls or fences.

(2) The application fee for a marijuana producer license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a marijuana producer license is one thousand dollars. The ~~((board))~~ WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(4) The ~~((board))~~ WSLCB will initially limit the opportunity to apply for a marijuana producer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana producer application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the ~~((board))~~ WSLCB. The ~~((board))~~ WSLCB may reopen the marijuana producer application window after the initial evaluation of

the applications received and at subsequent times when the ~~((board))~~ WSLCB deems necessary.

(5) Any entity and/or principals within any entity are limited to no more than three marijuana producer licenses.

(6) The maximum amount of space for marijuana production ~~((is initially limited to two million square feet, to be increased based on marketplace demand, but not to exceed eight and one-half million square feet without board approval))~~ will be imposed at a later date. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 - Less than two thousand square feet;
- (b) Tier 2 - Two thousand square feet to ten thousand square feet; and
- (c) Tier 3 - Ten thousand square feet to thirty thousand square feet.

(7) The ~~((board))~~ WSLCB may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum ~~((of two million))~~ square feet the ~~((board))~~ WSLCB will reduce the allowed square footage by the same percentage.

(b) If fifty percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the ~~((board))~~ WSLCB may reduce the tier of licensure.

(8) If the total amount of square feet of marijuana production exceeds ~~((two million))~~ the maximum square feet, the ~~((board))~~ WSLCB reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of marijuana on a producer's premises at any time is as follows:

- (a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or
- (b) Indoor grows - Six months of their annual harvest.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-077 What is a marijuana processor license and what are the requirements and fees related to a marijuana processor license? (1) A marijuana processor license allows the licensee to process, dry, cure, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers.

(2) A marijuana processor is allowed to blend tested usable marijuana from multiple lots into a single package for sale to a marijuana retail licensee providing the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(3) A marijuana processor licensee must obtain label and packaging approval from the ~~((liquor control board))~~ WSLCB for all marijuana-infused products ~~((, labeling, and packaging))~~ meant for ingestion prior to offering these items for sale to a marijuana retailer. The marijuana processor

licensee must submit a picture of the product, labeling, and packaging to the ~~((liquor control board))~~ WSLCB for approval.

If the ~~((liquor control board))~~ WSLCB denies a marijuana-infused product for sale in marijuana retail outlets, the marijuana processor licensee may request an administrative hearing per chapter 34.05 RCW, Administrative Procedure Act.

(4) All cannabinoids and terpenes used in the production of marijuana products must be derived from marijuana plants grown by a licensed marijuana producer.

(5) With the exception of the marijuana, all ingredients used in making marijuana-infused products for oral ingestion must be a commercially manufactured food as defined in WAC 246-215-01115.

(6) Marijuana-infused edible products in solid form must meet the following requirements:

(a) If there is more than one serving in the package, each serving must be packaged individually in childproof packaging (see WAC 314-55-105(7)) and placed in the outer package.

(b) The label must prominently display the number of servings in the package.

(c) Marijuana-infused solid edible products must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused solid edibles must prominently display on the label "This product contains marijuana."

~~((5))~~ (7) Marijuana-infused edible products in liquid form must meet the following requirements:

(a) If there is more than one serving in the package, a measuring device must be included in the package with the product.

(b) The label must prominently display the number of servings in the package and the amount of product per serving.

(c) Marijuana-infused liquid edibles must be homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(d) All marijuana-infused liquid edibles must prominently display on the label "This product contains marijuana."

~~((6))~~ (8) A marijuana processor is limited in the types of food or drinks they may infuse with marijuana. Marijuana-infused products that are especially appealing to children are prohibited. Marijuana-infused edible products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.

(a) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with marijuana. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with marijuana.

(b) Other food items that may not be infused with marijuana to be sold in a retail store are:

(i) Any food that has to be acidified to make it shelf stable;

- (ii) Food items made shelf stable by canning or retorting;
 - (iii) Fruit or vegetable juices (this does not include shelf stable concentrates);
 - (iv) Fruit or vegetable butters;
 - (v) Pumpkin pies, custard pies, or any pies that contain egg;
 - (vi) Dairy products of any kind such as butter, cheese, ice cream, or milk; and
 - (vii) Dried or cured meats.
- (c) Vinegars and oils derived from natural sources may be infused with dried marijuana if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(d) Marijuana-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(e) Per WAC 314-55-104, a marijuana processor may infuse dairy butter or fats derived from natural sources and use that extraction to prepare allowable marijuana-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

(f) The ~~((liquor control board))~~ WSLCB may designate other food items that may not be infused with marijuana.

~~((7))~~ (9) The recipe for any marijuana-infused solid or liquid products meant to be ingested orally must be kept on file at the marijuana processor's licensed premises and made available for inspection by the ~~((liquor control board))~~ WSLCB or its designee.

~~((8))~~ (10) Characterizing flavor for marijuana-infused products for inhalation and concentrates for inhalation is prohibited. "Characterizing flavor" means a distinguishable taste or smell related to fruit, chocolate, vanilla, honey, candy, cocoa, or dessert that emanates from or is imparted by a vapor product or the vapor or aerosol emitted by the vapor product at any time prior to, during, or after the use of a vapor product. "Characterizing flavor" does not include flavors related to menthol, wintergreen, mint, or inherent natural flavors or aromas associated with the original strain.

Marijuana-infused products and marijuana concentrates are presumed to be flavored if:

(a) A processor has made a public statement or claim that the product has or produces a characterizing flavor including, but not limited to, text or images on the product's label or packaging that is used explicitly or implicitly to communicate information about the flavor, taste, aroma, or smell of the product; or

(b) A processor has taken actions directed to consumers that would reasonably be expected to result in consumers believing that the product imparts a characterizing flavor.

(11) The application fee for a marijuana processor license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

~~((9))~~ (12) The annual fee for issuance and renewal of a marijuana processor license is one thousand dollars. The ~~((board))~~ WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor.

The licensee will be responsible for all fees required for the criminal history checks.

~~((10))~~ (13) A marijuana processor producing a marijuana-infused solid or liquid product meant to be ingested orally in a processing facility as required in WAC 314-55-015 (10) ~~and~~ (11) must pass a processing facility inspection. Ongoing annual processing facility compliance inspections may be required. The ~~((liquor control board))~~ WSLCB will contract with the department of agriculture to conduct required processing facility inspections. All costs of inspections are borne by the licensee and the hourly rate for inspection is sixty dollars. A licensee must allow the ~~((liquor control board))~~ WSLCB or their designee to conduct physical visits and inspect the processing facility, recipes and required records per WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice. Failure to pay for the processing facility inspection or to follow the processing facility requirements outlined in this section and WAC 314-55-015 will be sufficient grounds for the ~~((board))~~ WSLCB to suspend or revoke a marijuana license.

~~((11))~~ (14) The ~~((board))~~ WSLCB will initially limit the opportunity to apply for a marijuana processor license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana processor application license to be considered it must be received no later than thirty days after the effective date of the rules adopted by the ~~((board))~~ WSLCB. The ~~((board))~~ WSLCB may reopen the marijuana processor application window after the initial evaluation of the applications that are received and processed, and at subsequent times when the ~~((board))~~ WSLCB deems necessary.

~~((12))~~ (15) A currently licensed marijuana producer may submit an application to add a marijuana processor license at the location of their producer license providing they do not already hold three processor licenses.

(16) Any entity and/or principals within any entity are limited to no more than three marijuana processor licenses.

~~((13))~~ (17) Marijuana processor licensees are allowed to have a maximum of six months of their average usable marijuana and six months average of their total production on their licensed premises at any time.

~~((14))~~ (18) A marijuana processor must accept returns of products and sample jars from marijuana retailers for destruction, but is not required to provide refunds to the retailer. It is the responsibility of the retailer to ensure the product or sample jar is returned to the processor.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-079 What is a marijuana retailer license and what are the requirements and fees related to a marijuana retailer license? (1) A marijuana retailer license allows the licensee to sell only usable marijuana, marijuana concentrates, marijuana-infused products, and marijuana paraphernalia at retail in retail outlets to persons twenty-one years of age and older.

(2) Marijuana-infused products listed in WAC 314-55-077(6) are prohibited for sale by a marijuana retail licensee.

(3) Internet sales and delivery of product to customers is prohibited.

(4) The application fee for a marijuana retailer's license is two hundred fifty dollars. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(5) The annual fee for issuance and renewal of a marijuana retailer's license is one thousand dollars. The ~~((board))~~ WSLCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee will be responsible for all fees required for the criminal history checks.

(6) Marijuana retailers may not sell marijuana products below the current acquisition cost.

(7) Marijuana retailer licensees are allowed to have a maximum of four months of their average inventory on their licensed premises at any given time.

(8) A marijuana retailer may transport product to other locations operated by the licensee or to return product to a marijuana processor as outlined in the transportation rules in WAC 314-55-085.

(9) A marijuana retailer may only accept returns of marijuana products containing defective electronic components. Products must be returned in their original packaging with the lot, batch, or inventory ID number fully legible.

NEW SECTION

WAC 314-55-080 Medical marijuana endorsement.

(1) A medical marijuana endorsement added to a marijuana retail license allows the marijuana retail licensee to:

(a) Sell marijuana for medical use to qualifying patients and designated providers; and

(b) Provide marijuana at no charge, at their discretion, to qualifying patients and designated providers.

(2) To maintain a medical marijuana endorsement in good standing, a marijuana retailer must:

(a) Follow all rules adopted by the department of health regarding retail sales of medical marijuana;

(b) Have a consultant on staff in accordance with department of health rules;

(c) Prohibit the medical use of marijuana by anyone at the retail outlet at all times, including medical use by qualifying patients;

(d) Maintain at all times, a representative assortment of marijuana products necessary to meet the needs of qualified patients and designated providers. Beginning with the second renewal cycle, not less than twenty-five percent of a marijuana retail outlet's inventory, excluding paraphernalia, must consist of products meeting the requirements of chapter 246-72 WAC. Failure to maintain adequate inventory of such products may result in suspension or revocation of the medical marijuana endorsement;

(e) Not market marijuana concentrates, usable marijuana, or marijuana-infused products in a way that make them especially attractive to minors;

(f) Demonstrate the ability to enter qualifying patients and designated providers in the medical marijuana authorization data base established by the department of health;

(g) Issue recognition cards and agree to enter qualifying patients and designated providers into the data base in compliance with the department of health standards;

(h) Keep copies of the qualifying patient's or designated provider's recognition card or equivalent records to document the validity of tax exempt sales for a minimum of three years;

(i) Train employees on the following:

(i) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical marijuana authorization data base;

(ii) Recognition of valid recognition cards; and

(iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of marijuana concentrates, usable marijuana, and marijuana-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

(3) A marijuana retailer holding a medical marijuana endorsement may sell products with a THC concentration of 0.3 percent or less. The licensee may also provide these products at no charge to qualifying patients or designated providers.

(4) Unlicensed practice of medicine. No owner, employee, or volunteer of a retail outlet and holding a medical marijuana endorsement may:

(a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of marijuana products or any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of marijuana products.

(5) Failure to comply with subsections (3) and (4) of this section may result in suspension or revocation of the medical marijuana endorsement.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-081 Who can apply for a marijuana retailer license? (1) The WSLCB may accept applications for marijuana retail licenses at time frames published on its web site at lcb.wa.gov. Using estimated consumption data and population data obtained from the office of financial management (OFM) population data, the ~~((liquor control board))~~ WSLCB will determine the maximum number of marijuana retail locations per county((-

~~The number of retail locations will be determined using a method that distributes the number of locations proportionate to the most populous cities within each county. Locations not assigned to a specific city will be at large. At large locations can be used for unincorporated areas in the county or in cities within the county that have no retail licenses designated. Once the number of locations per city and at large have been identified, the eligible applicants will be selected by lottery in the event the number of applications exceeds the allot-~~

~~ted amount for the cities and county. Any lottery conducted by the board will be witnessed by an independent third party.~~

~~(2) The number of marijuana retail licenses determined by the board can be found on the liquor control board web site at www.liq.wa.gov.~~

~~(3) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses with no multiple location licensee allowed more than thirty-three percent of the allowed licenses in any county or city.~~

~~(4) The board will initially limit the opportunity to apply for a marijuana retailer license to a thirty-day calendar window beginning with the effective date of this section. In order for a marijuana retailer license application to be considered it must be received no later than thirty days after the effective date of the rules adopted by the board. The board may reopen the marijuana retailer application window after the initial evaluation of the applications received and at subsequent times when the board deems necessary)) at a later date.~~

(2) Any entity and/or principals within any entity are limited to no more than three retail marijuana licenses.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-082 Insurance requirements. Marijuana licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the marijuana licensees. Marijuana licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the ~~((board))~~ WSLCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(1) **Commercial general liability insurance:** The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(2) **Insurance carrier rating:** The insurance required in subsection (1) of this section shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(3) **Additional insured.** The ~~((board))~~ state and its employees, agents, and volunteers shall be named as an additional insured on all general liability, umbrella, and excess

insurance policies. All policies shall be primary over any other valid and collectable insurance.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-083 What are the security requirements for a marijuana licensee? The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All licensees and employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises and engaged in the transportation of marijuana. The identification badge must list the licensee's trade name and include the person's full and legal name, date of birth, and photograph.

(a) All nonemployee visitors to the licensed premises, other than retail store customers, shall be required to hold and properly display an identification badge issued by the licensee at all times while on the licensed premises.

(b) A log must be kept and maintained showing the full name of each visitor entering the licensed premises, badge number issued, the time of arrival, time of departure, and the purpose of the visit.

(c) All log records must be maintained on the licensed premises for a period of three years and are subject to inspection by any ~~((liquor control board))~~ WSLCB employee or law enforcement officer, and must be copied and provided to the ~~((liquor control board))~~ WSLCB or law enforcement officer upon request.

(d) Employees, visitors, and other persons at a marijuana licensed premises, including persons engaged in the transportation of marijuana, must provide identification to a WSLCB enforcement officer upon request.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a licensed premises must have a complete video surveillance system with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog. The surveillance system storage device and/or the cameras must be internet protocol (IP) compatible. All cameras must be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas of the licensed premises. All entrances and exits to an indoor facility shall be recorded from both indoor and outdoor, or ingress and egress vantage points. All cameras must record continuously twenty-four hours per day and at a minimum of ten frames per second. The surveillance system storage device must be secured on the licensed premises in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any ~~((liquor control board))~~ WSLCB employee or law enforcement officer, and must be copied and provided to the ~~((liquor control board))~~ WSLCB or law

enforcement officer upon request. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) Controlled areas include:

(i) Any area within an indoor, greenhouse or outdoor room or area where marijuana is grown, or marijuana or marijuana waste is being moved within, processed, stored, or destroyed. Rooms or areas where marijuana or marijuana waste is never present are not considered control areas and do not require camera coverage.

(ii) All point-of-sale (POS) areas.

(iii) Twenty feet of the exterior of the perimeter of all required fencing and gates enclosing an outdoor grow operation. Any gate or other entry point that is part of the required enclosure for an outdoor growing operation must be lighted in low-light conditions. A motion detection lighting system may be employed to light the gate area in low-light conditions.

(iv) Any room or area storing a surveillance system storage device.

(b) All marijuana, marijuana concentrates, or marijuana-infused products that are intended to be removed or transported between two licensed premises shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the ~~((liquor control board))~~ WSLCB or designees.

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the ~~((board))~~ WSLCB. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts, marijuana-infused products, samples, and marijuana waste must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the ~~((board))~~ WSLCB:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana, marijuana extract, marijuana concentrates, marijuana-infused product, or marijuana waste is to be destroyed;

(d) When usable marijuana, marijuana concentrates, or marijuana-infused products are transported;

(e) Any theft of usable marijuana, marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, seed, plant tissue or other item containing marijuana;

(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is

given before any plant may be destroyed, a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste may be destroyed;

(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before marijuana plants, seeds, plant tissue cultures, or lots of marijuana are transported from a producer to another producer or to a processor;

(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before usable marijuana, marijuana concentrates, or marijuana-infused products are transported from a processor to another processor or to a retailer;

~~(i) ((Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happen when a plant is moved from the seed germination or clone area to the vegetation production area;))~~ All marijuana plants eight or more inches in height or width must be physically tagged and tracked individually;

(j) A complete inventory of all marijuana, seeds, plant tissue, seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract, marijuana concentrates, marijuana-infused products, and marijuana waste;

(k) All marijuana, usable marijuana, marijuana-infused products, marijuana concentrates, seeds, plant tissue, clone lots, and marijuana waste must be physically tagged with the sixteen digit identification number generated by the traceability system and tracked;

~~(l)~~ All point of sale records;

~~((H))~~ ~~(m)~~ Marijuana excise tax records;

~~((M))~~ ~~(n)~~ All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;

~~((H))~~ ~~(o)~~ All free samples provided to another licensee for purposes of negotiating a sale;

~~((H))~~ ~~(p)~~ All samples used for testing for quality by the producer or processor;

~~((H))~~ ~~(q)~~ Samples containing usable marijuana provided to retailers;

~~((H))~~ ~~(r)~~ Samples provided to the ~~((board))~~ WSLCB or their designee for quality assurance compliance checks; and

~~((H))~~ ~~(s)~~ Other information specified by the board.

(5) **Start-up inventory for marijuana producers.**

Within fifteen days of starting production operations a producer must have all nonflowering marijuana plants, clones, seeds, and plant tissue cultures physically on the licensed premises. The producer must, within twenty-four hours, record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

~~((6) Samples. Free samples of usable marijuana may be provided by producers or processors, or used for product quality testing, as set forth in this section.~~

(a) Samples are limited to two grams and a producer may not provide any one licensed processor more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The producer must record the amount of each sample and the processor receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a sample to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the sample in the traceability system prior to sampling.

(b) Samples are limited to two grams and a processor may not provide any one licensed retailer more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a sample to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the sample in the traceability system prior to sampling.

(c) Samples are limited to two units and a processor may not provide any one licensed retailer more than six ounces of marijuana infused in solid form per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a sample to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the sample in the traceability system prior to sampling.

(d) Samples are limited to two units and a processor may not provide any one licensed retailer more than twenty-four ounces of marijuana-infused liquid per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a sample to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the sample in the traceability system prior to sampling.

(e) Samples are limited to one-half gram and a processor may not provide any one licensed retailer more than one gram of marijuana-infused extract meant for inhalation per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a sample to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the sample in the traceability system prior to sampling.

(f) Producers may sample one gram of usable marijuana per strain, per month for quality sampling. Sampling for quality may not take place at a licensed premises. Only the producer or employees of the licensee may sample the usable marijuana for quality. The producer must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(g) Processors may sample one unit, per batch of a new edible marijuana-infused product to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employees of the licensee may sample the edible marijuana-infused product. The processor must record the amount of each sample and the

employee(s) conducting the sampling in the traceability system.

(h) Processors may sample up to one quarter gram, per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employee(s) of the licensee may sample the marijuana-infused extract for inhalation. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(i) The limits described in subsection (6) of this section do not apply to the usable marijuana in sample jars that may be provided to retailers described in WAC 314-55-105(8).

(j) Retailers may not provide free samples to customers.)

AMENDATORY SECTION (Amending WSR 14-10-044, filed 4/30/14, effective 5/31/14)

WAC 314-55-084 Production of marijuana. (1) Only the following specified soil amendments, fertilizers, other crop production aids, and pesticides may be used in the production of marijuana:

~~((1))~~ (a) Pesticides registered by WSDA under chapter 15.58 RCW as allowed for use in the production, processing, and handling of marijuana. Pesticides must be used consistent with the label requirements.

~~((2))~~ (b) Commercial fertilizers registered by WSDA under chapter 15.54 RCW.

~~((3))~~ (c) Potting soil, crop production aids, soil amendments, and other growing media available commercially in the state of Washington may be used in marijuana production. Producers growing outdoors are not required to meet land eligibility requirements outlined in 7 C.F.R. Part 205.202.

(2) Examples of prohibited products:

(a) The use of products containing plant growth regulators not allowed for use on food crops including, but not limited to, any of the following ingredients, is prohibited:

- Ancymidol
- Chlormequat chloride
- Clofencet
- Colchicine
- Colloidal silver
- Daminozide
- Dikegulac-sodium
- Flumetralin
- Flurprimidol
- Paclobutrazol

(b) The use of vitamin-hormone products not intended for use on food crops is prohibited.

(c) The use of products containing the insecticide DDVP (Dichlorvos) is prohibited in all areas where marijuana is being grown or processed.

(3) Soil amendments, fertilizers, growing media, other crop production aids, and pesticides that do not conform to subsections (1) and (2) of this section cannot be used, kept, or stored on the licensed premises.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-085 What are the transportation requirements for a marijuana licensee? (1) **Notification of shipment.** Upon transporting any marijuana or marijuana product, a producer, processor, retailer, or certified third-party testing lab shall notify the ~~((board))~~ WSLCB of the type and amount and/or weight of marijuana and/or marijuana products being transported, the name of transporter, information about the transporting vehicle, times of departure and expected delivery. This information must be reported in the traceability system described in WAC 314-55-083(4).

(2) **Receipt of shipment.** Upon receiving the shipment, the licensee or certified third-party lab receiving the product shall report the amount and/or weight of marijuana and/or marijuana products received in the traceability system.

(3) **Transportation manifest.** A complete printed transport manifest on a form provided by the ~~((board))~~ WSLCB containing all information required by the ~~((board))~~ WSLCB must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location and are subject to inspection.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the marijuana licensee, an employee of the licensee, a transportation licensee, or a certified testing lab may transport product and/or occupy a transporting vehicle;

(b) Drivers and/or occupants of a transporting vehicle must be twenty-one years of age or older;

(c) Marijuana or marijuana products must be in a sealed package or container approved by the ~~((board))~~ WSLCB pursuant to WAC 314-55-105;

~~((e))~~ (d) Sealed packages or containers cannot be opened during transport;

~~((e))~~ (e) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartments of the vehicle transporting the marijuana or marijuana products;

~~((e))~~ (f) Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other facilities receiving product;

~~((f))~~ (g) Live plants may be transported in a fully enclosed, windowless locked trailer, or in a secured area within the inside body/compartments of a van or box truck. A secured area is defined as an area where solid or locking metal partitions, cages, or high strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed van or box truck. The secure compartment in the fully enclosed van or box truck must be free of windows. Live plants may not be transported in the bed of a pickup truck, a sports utility vehicle, or passenger car.

(6) For purposes of this chapter, any vehicle assigned for the purposes of transporting marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products shall be considered an extension of the licensed premises ~~((and))~~ Transport vehicles are subject to inspection by enforcement officers of the ~~((liquor control board))~~ WSLCB. Vehicles

assigned for transportation may be stopped and inspected by a ~~((liquor))~~ WSLCB enforcement officer at any licensed location, or while en route during transportation.

(7) All marijuana plants, clones, seeds, lots, batches, intermediate products, end products, vendor samples, and sample jars must remain physically tagged during transport.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-086 What are the mandatory signs a marijuana licensee must post on a licensed premises? (1) **Notices regarding persons under twenty-one years of age** must be conspicuously posted on the premises as follows:

Type of licensee	Sign must contain the following language:	Required location of sign
Medical marijuana retailer	"Persons under twenty-one years of age not permitted on these premises without a valid qualifying patient card. Juvenile qualifying patients must be accompanied by their designated provider at all times."	Conspicuous location at each entry to premises.
Marijuana producer, marijuana processor, and marijuana retailer	"Persons under twenty-one years of age not permitted on these premises."	Conspicuous location at each entry to premises.

The ~~((board))~~ WSLCB will provide the required notices, or licensees may design their own notices as long as they are legible and contain the required language.

(2) **Signs provided by the ~~((board))~~ WSLCB prohibiting opening a package of marijuana or marijuana-infused product in public or consumption of marijuana or marijuana-infused products in public**, must be posted as follows:

Type of premises	Required location of sign
Marijuana retail	Posted in plain view at the main entrance to the establishment.

(3) **The premises' current and valid master license with appropriate endorsements** must be conspicuously posted on the premises and available for inspection by ~~((liquor))~~ WSLCB enforcement officers.

(4) Firearms prohibited signs provided by the ~~((board))~~ WSLCB must be posted at the entrance of each producer, processor, and retailer licensed location.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-087 What are the recordkeeping requirements for marijuana licensees? (1) Marijuana licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the licensed premises for a three-year period and must be made available for inspection if requested by an employee of the ~~((liquor control board))~~ WSLCB:

(a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) All employee records ~~((;))~~ to include, but not limited to, training, payroll, and date of hire;

(f) Records of each daily application of pesticides applied to the marijuana plants or growing medium. For each application, the producer shall record the following information on the same day the application is made:

(i) Full name of each employee who applied the pesticide;

(ii) The date the pesticide was applied;

(iii) The name of the pesticide or product name listed on the registration label which was applied;

(iv) The concentration and total amount of pesticide per plant; and

(v) For outdoor production, the concentration of pesticide that was applied to the field. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., one percent). For chemigation applications, record "inches of water applied" or other appropriate measure.

(g) Soil amendment, fertilizers, or other crop production aids applied to the growing medium or used in the process of growing marijuana;

(h) Production and processing records, including harvest and curing, weighing, destruction of marijuana, creating batches of marijuana-infused products and packaging into lots and units;

(i) Records of each batch of extracts or infused marijuana products made, including at a minimum, the lots of usable marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

(j) Transportation records as described in WAC 314-55-085;

(k) Inventory records;

(l) All samples sent to an independent testing lab and the quality assurance test results;

(m) All free samples provided to another licensee for purposes of negotiating a sale;

(n) All samples used for testing for quality by the producer or processor;

(o) Sample jars containing usable marijuana provided to retailers; and

(p) Records of any theft of marijuana seedlings, clones, plants, trim or other plant material, extract, marijuana-infused product, or other item containing marijuana.

(q) Records of any marijuana product provided free of charge to qualifying patients or designated providers.

(2) If the marijuana licensee keeps records within an automated data processing (ADP) and/or point-of-sale (POS) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP and/or POS system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If print-outs of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP and/or POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(3) The provisions contained in subsections (1) and (2) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-089 What are the tax and reporting requirements for marijuana licensees? (1) Marijuana producer and marijuana processor licensees must submit monthly report(s) to the WSLCB. Marijuana retailer licensees must submit monthly report(s) and payments to the ~~((board))~~ WSLCB. The required monthly reports must be:

(a) On a form or electronic system designated by the ~~((board))~~ WSLCB;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with payment due, to the ~~((board))~~ WSLCB on or before the twentieth day of each month, for the previous month. (For example, a report listing transactions for the month of January is due by February 20th.) When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day;

(d) Filed separately for each marijuana license held; and

(e) All records must be maintained and available for review for a three-year period on licensed premises (see WAC 314-55-087).

(2) **Marijuana producer licensees:** On a monthly basis, marijuana producers must maintain records and report purchases from other licensed marijuana producers, current production and inventory on hand, sales by product type, and lost and destroyed product in a manner prescribed by the ~~((board~~

~~A marijuana producer licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale to a licensed marijuana processor or producer))~~ WSLCB.

(3) **Marijuana processor licensees:** On a monthly basis, marijuana processors must maintain records and report purchases from licensed marijuana producers, other marijuana processors, production of marijuana-infused products, sales by product type to marijuana retailers, and lost and/or destroyed product in a manner prescribed by the ~~((board~~

~~A marijuana processor licensee must pay to the board a marijuana excise tax of twenty-five percent of the selling price on each wholesale sale of usable marijuana, marijuana concentrates, and marijuana-infused product to a licensed marijuana retailer))~~ WSLCB.

(4) **Marijuana retailer's licensees:** On a monthly basis, marijuana retailers must maintain records and report purchases from licensed marijuana processors, sales by product type to consumers, and lost and/or destroyed product in a manner prescribed by the ~~((board))~~ WSLCB.

A marijuana retailer licensee must pay to the ~~((board))~~ WSLCB a marijuana excise tax of ~~((twenty-five))~~ thirty-seven percent of the selling price on each retail sale of usable marijuana, marijuana concentrates, and marijuana-infused products.

AMENDATORY SECTION (Amending WSR 14-10-044, filed 4/30/14, effective 5/31/14)

WAC 314-55-092 What if a marijuana licensee fails to report or pay, or reports or pays late? (1) If a marijuana licensee does not submit its monthly reports and/or payment(s) to the ~~((board))~~ WSLCB as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on any payments postmarked after the twentieth day of the month following the month of sale. When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the ~~((liquor control board))~~ WSLCB or authorized designee, will be used to assess the penalty of two percent per month on payments received after the twentieth day of the month following the month of sale.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the ~~((board))~~ WSLCB to suspend or revoke a marijuana license.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-095 Marijuana servings and transaction limitations. ~~((Marijuana dosage))~~ (1) For persons age twenty-one and older and qualifying patients or designated providers who are not entered into the medical marijuana

authorization data base, marijuana serving and transaction limitations are as follows:

~~((+))~~ (a) **Single serving.** A single serving of a marijuana-infused product must not exceed ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

~~((=))~~ (b) **Maximum number of servings.** The maximum number of servings in any one single unit of marijuana-infused product meant to be eaten or swallowed is ten servings or one hundred milligrams of active THC, or Delta 9, ~~((which ever is less))~~. A single unit of marijuana concentrate cannot exceed one gram.

~~((=))~~ (c) **Transaction limitation.** A single transaction is limited to one ounce of usable marijuana, sixteen ounces of marijuana-infused product meant to be eaten or swallowed in solid form, seven grams of marijuana-infused extract or marijuana concentrate for inhalation, and seventy-two ounces of marijuana-infused product in liquid form meant to be eaten or swallowed ~~((for persons twenty-one years of age and older))~~.

(2) For qualifying patients and designated providers who are entered into the medical marijuana authorization data base, serving and transaction limits are as follows:

(a) **Single serving.** Except as provided in chapter 246-70 WAC, a single serving of a marijuana-infused product must not exceed ten milligrams active tetrahydrocannabinol (THC), or Delta 9.

(b) **Maximum number of servings.** Except as provided in chapter 246-70 WAC, the maximum number of servings in any one single unit of marijuana-infused product meant to be eaten, swallowed or applied is ten servings or one hundred milligrams of active THC, or Delta 9. A single unit of marijuana concentrate cannot exceed one gram.

(c) **Transaction limitation.** A single transaction by a retail store with a medical marijuana endorsement to a qualifying patient or designated provider who is entered into the medical marijuana data base is limited to three ounces of usable marijuana, forty-eight ounces of marijuana-infused product meant to be eaten or swallowed in solid form, twenty-one grams of marijuana-infused extract or marijuana concentrate for inhalation, and two hundred sixteen ounces of marijuana-infused product in liquid form meant to be eaten or swallowed.

NEW SECTION

WAC 314-55-096 Samples. (1) **Vendor samples:** Producers or processors may provide free samples of usable marijuana, marijuana-infused products, and marijuana concentrates in order to negotiate a sale. All sample limits are based on calendar months. The producer or processor must record the amount of each sample and the processor or retailer receiving the sample in the traceability system. The outgoing sample must be clearly labeled as a sample to negotiate a sale and recorded on a transport manifest. The receiving licensee must receive the sample in the traceability system prior to sampling.

(a) Producers may not provide any one licensed processor more than eight grams of marijuana flower per month free of charge for the purpose of negotiating a sale.

(b) Processors may not provide any one licensed retailer more than eight grams of usable marijuana per month free of charge for the purpose of negotiating a sale.

(c) Processors may not provide any one licensed retailer more than eight units of marijuana-infused products in solid form per month free of charge for the purpose of negotiating a sale. No single sample may exceed 10 mg of THC.

(d) Processors may not provide any one licensed retailer more than eight units of marijuana-infused product in liquid form per month free of charge for the purpose of negotiating a sale. No single sample may exceed 10 mg of THC.

(e) Processors may not provide any one licensed retailer more than two units of marijuana-infused extract meant for inhalation or infused marijuana mix per month free of charge for the purpose of negotiating a sale. No single sample may exceed 0.5 g.

(f) A marijuana producer must make quality assurance test results available to any processor receiving samples to negotiate a sale. The producer must also provide a statement that discloses all pesticides applied to the marijuana plants and growing medium during production.

(g) A marijuana processor must make quality assurance test results available to any retailer receiving samples to negotiate a sale. If a marijuana extract was added to the product, the processors must disclose the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(2) **Vendor sample labeling:** All vendor samples must be clearly labeled as a vendor sample and meet all labeling requirements of the product to be sampled.

(a) Sixteen digit identification number generated by the traceability system;

(b) The UBI number of the licensed entity providing the sample; and

(c) Weight of the product.

(3) **Internal quality control sampling:** Producers and processors may conduct limited self-sampling for quality control. All sample limits are based on calendar months. Sampling for quality control may not take place at a licensed premises. Only the producer, processor, or employees of the licensee may sample the marijuana flower, usable marijuana, marijuana-infused products, marijuana concentrates, and edible marijuana-infused product. The producer or processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(a) Producers may sample two grams of marijuana flower per strain, per month for quality sampling.

(b) Processors may sample one unit per batch of a new edible marijuana-infused product meant to be eaten or swallowed to be offered for sale on the market.

(c) Processors may sample up to one unit per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. No single sample may exceed 0.5 g.

(d) Processors may sample one unit per batch of a new marijuana mix packaged to be offered for sale on the market. No single sample may exceed 1 g.

(e) Processors may sample one unit per batch of a new infused marijuana mix to be offered for sale on the market. No sample may exceed 0.5 g.

(4) **Retailers may not provide free samples to customers.**

(5) **Sample jars:** A processor may provide a retailer free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of usable marijuana. The plastic or metal mesh screen must be sealed onto the container, and must be free of rips, tears, or holes greater than 2 mm in diameter. The sample jar and the usable marijuana within may not be sold to a customer and must be returned to the licensed processor who provided the usable marijuana and sample jar.

(6) **Sample labeling:** All vendor samples and sample jars must be labeled with the following:

(a) Sixteen digit identification number given by the traceability system;

(b) Information identifying whether it is a vendor sample or sample jar;

(c) The UBI number of the licensed entity providing the sample; and

(d) Weight of the product.

(7) A marijuana processor must make quality assurance test results available to any retailer receiving sample jars. The processor must also provide a statement that discloses all pesticides applied to the marijuana plants and growing medium during production.

If a marijuana extract was added to the product, the processor must disclose to the retailer the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract.

(8) **Transportation.** Outgoing and return vendor samples and sample jars must adhere to the transportation requirements in WAC 314-55-085.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-097 Marijuana waste disposal—Liquids and solids. (1) Solid and liquid wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

(2) Wastewater generated during marijuana production and processing must be disposed of in compliance with applicable state and local laws and regulations.

(3) Wastes from the production and processing of marijuana plants must be evaluated against the state's dangerous waste regulations (chapter 173-303 WAC) to determine if those wastes designate as dangerous waste. It is the responsibility of each waste generator to properly evaluate their waste to determine if it ~~((designates))~~ **is designated** as a dangerous waste. If a generator's waste does designate as a dangerous waste, then that waste(s) is subject to the applicable management standards found in chapter 173-303 WAC.

(a) Wastes that must be evaluated against the dangerous waste regulations include, but are not limited to, the following:

(i) Waste from marijuana flowers, trim and solid plant material used to create an extract (per WAC 314-55-104).

(ii) Waste solvents used in the marijuana process (per WAC 314-55-104).

(iii) Discarded plant waste, spent solvents and laboratory wastes from any marijuana processing or quality assurance testing.

(iv) Marijuana extract that fails to meet quality testing.

(b) Marijuana wastes that do not designate as dangerous shall be managed in accordance with subsection (4) of this section.

(c) A marijuana plant, usable marijuana, trim and other plant material in itself is not considered dangerous waste as defined under chapter 173-303 WAC unless it has been treated or contaminated with a solvent.

(4) Marijuana waste that does not designate as dangerous waste (per subsection (3) of this section) must be rendered unusable following the methods in subsection (5) of this section prior to leaving a licensed producer, processor, or laboratory. Disposal of the marijuana waste rendered unusable must follow the methods under subsection (6) of this section.

(a) Wastes that must be rendered unusable prior to disposal include, but are not limited to, the following:

(i) Waste evaluated per subsection (3) of this section and determined to not designate as "Dangerous Waste."

(ii) Marijuana plant waste, including roots, stalks, leaves, and stems that have not been processed with solvent.

(iii) Solid marijuana sample plant waste possessed by third-party laboratories accredited by the ~~((board))~~ WSLCB to test for quality assurance that must be disposed of.

(iv) Other wastes as determined by the ~~((LCB))~~ WSLCB.

(b) A producer or processor must provide the ~~((board))~~ WSLCB a minimum of seventy-two hours notice in the traceability system described in WAC 314-55-083(4) prior to rendering the product unusable and disposing of it.

(5) The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent nonmarijuana waste by volume. Other methods to render marijuana waste unusable must be approved by ~~((LCB))~~ the WSLCB before implementation.

Material used to grind with the marijuana falls into two categories: Compostable waste and noncompostable waste.

(a) Compostable mixed waste: Marijuana waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

(i) Food waste;

(ii) Yard waste;

(iii) Vegetable based grease or oils; or

(iv) Other wastes as approved by the ~~((LCB))~~ WSLCB.

(b) Noncompostable mixed waste: Marijuana waste to be disposed in a landfill or another disposal method (for example, incinerator) may be mixed with the following types of waste materials:

(i) Paper waste;

(ii) Cardboard waste;

(iii) Plastic waste;

(iv) Soil; or

(v) Other wastes as approved by the ~~((LCB))~~ WSLCB.

(6) Marijuana wastes rendered unusable following the method described in subsection (4) of this section can be disposed.

(a) Disposal of the marijuana waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

(i) Compostable mixed waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.

(ii) Noncompostable mixed waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

(b) Disposal of the marijuana waste rendered unusable may be managed on-site by the generator in accordance with the standards of chapter 173-350 WAC.

(c) A record of the final destination of marijuana waste rendered unusable.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-099 Standardized scales. (1) Marijuana producer and processor licensees must have at least one scale on the licensed premises for the traceability and inventory of products.

(2) ~~((The))~~ All scales and other measuring devices are subject to chapter 19.94 RCW, and must meet the requirements of the most current version of chapter ~~((s))~~ 16-662 ~~((and 16-664))~~ WAC.

(3) Licensees must register all scales on a business license application with business license services through the department of revenue as required under chapter 19.94 RCW.

NEW SECTION

WAC 314-55-101 Sampling protocols. (1)(a) To ensure that quality assurance samples submitted to certified third-party labs are representative from the lot or batch from which they were sampled as required in RCW 69.50.348, licensed producers, licensed processors, certified third-party laboratories, and their employees must adhere to the following minimum sampling protocols.

(b) Samples must be deducted in a way that is most representative of the lot or batch and maintains the structure of the marijuana sample. Licensees, certified third-party laboratories, and their employees may not adulterate or change in any way the representative sample from a lot or batch before submitting the sample to certified third-party laboratories. This includes adulterating or changing the sample in any way as to inflate the level of potency, or to hide any microbiological contaminants from the required microbiological screening such as, but not limited to:

(i) Adulterating the sample with kief, concentrates, or other extracts;

(ii) Treating a sample with solvents to hide the microbial count of the lot or batch from which it was deducted. This is not meant to be construed as prohibiting the treatment of failed lots or batches with methods approved by the WSLCB; and

(iii) Pregrinding a flower lot sample.

(2) **Sampling protocols for all marijuana product lots and batches:** The deduction of all quality assurance samples must adhere to the following sampling protocols:

(a) All samples must be taken in a sanitary environment using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

(b) Persons taking samples must wash their hands prior to deducting samples from a lot or batch, wear gloves while preparing or deducting the lot or batch for sampling, and must use sanitary utensils and storage devices.

(c) Samples must be placed in a sterile plastic or glass container, and stored in a location that prevents the propagation of pathogens and other contaminants. This includes low light levels, mild temperatures, and low humidity environments.

(d) The licensee shall maintain the lot or batch from which the sample was deducted in a secure, cool, and dry location to prevent the marijuana from becoming contaminated or losing its efficacy.

(3) Additional sampling protocols for flower lots:

(a) Licensees or certified third-party labs are required to deduct four separate samples from each marijuana flower lot in order to ensure representativeness of the lot. The four samples must be of equal weight, not less than one gram each, and the cumulative weight of the four samples may not be more than the maximum allowed in WAC 314-55-102.

(b) The four separate samples must be taken from different quadrants of the flower lot. A quadrant is the division of a lot into four equal parts. This may be done visually or physically, but must be done in a manner that ensures the samples were deducted from four evenly distributed areas of the flower lot.

(c) The four separate samples may be placed together in a container that conforms to subsection (2) of this section for storage and transfer to a certified third-party lab.

(4) Certified third-party laboratories may reject a sample if they believe the sample was not collected in the manner required by this section, has been adulterated in any way, contaminated with known or unknown solvents, or was manipulated in a way that violates the sampling protocols.

(5) The WSLCB or its designee will take immediate disciplinary action against any licensee or certified third-party lab which fails to comply with the provisions of this section or falsifies records related to this section including, without limitation, revoking the license or certificate of the licensed producer or processor, or certified third-party lab.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-102 Quality assurance testing. (1) A third-party testing lab must be certified by the ((board)) WSLCB or their vendor as meeting the ((board's)) WSLCB's accreditation and other requirements prior to conducting required quality assurance tests. Certified labs will receive a certification letter from the ((board)) WSLCB and must conspicuously display this letter in the lab in plain sight of the

customers. The ((board)) WSLCB can summarily suspend a lab's certification if a lab is found out of compliance with the requirements of WAC 314-55-102.

(2) A person with financial interest in a certified third-party testing lab may not have direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests. A person with direct or indirect financial interest in a certified third-party testing lab must disclose to the ((board)) WSLCB by affidavit any direct or indirect financial interest in a licensed marijuana producer or processor.

(3) As a condition of certification, each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director shall meet the following minimum qualifications:

(a) Has earned, from a college or university accredited by a national or regional certifying authority a doctorate in the chemical or biological sciences and a minimum of two years' post-degree laboratory experience; or

(b) Has earned a master's degree in the chemical or biological sciences and has a minimum of four years' of post-degree laboratory experience; or

(c) Has earned a bachelor's degree in the chemical or biological sciences and has a minimum of six years of post-education laboratory experience.

(4) As a condition of certification, labs must follow the most current version of the Cannabis Inflorescence and Leaf monograph published by the *American Herbal Pharmacopoeia* or notify the ((board)) WSLCB what alternative scientifically valid testing methodology the lab is following for each quality assurance test. The ((board)) WSLCB may require third-party validation of any monograph or analytical method followed by the lab to ensure the methodology produces scientifically accurate results prior to them using those standards when conducting required quality assurance tests.

(5) As a condition of certification, the ((board)) WSLCB may require third-party validation and ongoing monitoring of a lab's basic proficiency to correctly execute the analytical methodologies employed by the lab. The ((board)) WSLCB may contract with a vendor to conduct the validation and ongoing monitoring described in this subsection. The lab shall pay all vendor fees for validation and ongoing monitoring directly to the vendor.

(6) The lab must allow the ((board)) WSLCB or their vendor to conduct physical visits and inspect related laboratory equipment, testing and other related records during normal business hours without advance notice.

(7) Labs must adopt and follow minimum good lab practices (GLPs), and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the ((board)) WSLCB. The ((board)) WSLCB or authorized third-party organization can conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(8) The WSLCB or its designee will take immediate disciplinary action against any certified third-party lab which fails to comply with the provisions of this section or falsifies records related to this section including, without limitation, revoking the certificate of the certified third-party lab.

(9) The general body of required quality assurance tests for marijuana flowers and infused products may include moisture content, potency analysis, foreign matter inspection, microbiological screening, pesticide and other chemical residue and metals screening, and residual solvents levels.

~~((9))~~ (10) Table of required quality assurance tests defined in the most current version of the *Cannabis Inflorescence and Leaf* monograph published by the American Herbal Pharmacopoeia.

(a) Marijuana flower lots ~~((and other material lots))~~ require the following quality assurance tests. Processors have thirty days after the certified third-party lab submits the results to process the lot. After thirty days the flower lot must be retested:

Product	Test(s) Required	Maximum Sample Size
	Flower Lots and Other Material Lots	
Lots of marijuana flowers that will not be extracted	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening	7 grams

(b) Intermediate products must meet the following requirements:

(i) All intermediate products must be homogenized prior to quality assurance testing;

(ii) A batch for the purposes of this section is defined as a single run through the extraction or infusion process;

(iii) A batch of marijuana mix may not exceed five pounds and must be chopped or ground so no particles are greater than 3 mm; and

~~((iii))~~ (iv) All batches of intermediate products require the following quality assurance tests:

Product	Test(s) Required Intermediate Products	Maximum Sample Size
Marijuana mix	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening	7 grams
Concentrate or extract <u>made with hydrocarbons</u> (solvent based made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity)	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that has not passed QA testing) 3. Residual solvent test	2 grams
Concentrate or extract made with a CO ₂ extractor like hash oil	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that has not passed QA testing)	2 grams

Product	Test(s) Required Intermediate Products	Maximum Sample Size
Concentrate or extract made with ethanol	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that has not passed QA testing) 3. <u>Residual solvent</u>	2 grams
Concentrate or extract made with approved food grade solvent	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that has not passed QA testing)	2 grams
Concentrate or extract (nonsolvent) such as ((keif)) kief, hashish, or bubble hash	1. Potency analysis 2. Microbiological ((screening- (only if using flowers and other plant material that has not passed QA testing)))	2 grams
Infused cooking oil or fat in solid form	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that has not passed QA testing)	2 grams

(c) All marijuana, marijuana-infused products, ~~((and))~~ marijuana concentrates, marijuana mix packaged, and marijuana mix infused sold from a processor to a retailer require the following quality assurance tests:

Product	Test(s) Required End Products	Maximum Sample Size
Infused solid edible	1. Potency analysis	1 unit
Infused liquid (like a soda or tonic)	1. Potency analysis	1 unit
Infused topical	1. Potency analysis	1 unit
Marijuana mix <u>packaged</u> (loose or rolled)	1. Potency analysis	2 grams
((Infused)) <u>Marijuana mix infused</u> (loose or rolled)	1. Potency analysis	2 grams
Concentrate or marijuana-infused product for inhalation	1. Potency analysis	1 unit

(d) End products consisting of only one intermediate product that has not been changed in any way is not subject to potency analysis.

~~((10) Independent testing))~~ (11) Certified third-party labs may request additional sample material in excess of amounts listed in the table in subsection ~~((9))~~ (10) of this section for the purposes of completing required quality assurance tests. Labs certified as meeting the ~~((board's))~~ WSLCB's accreditation requirements may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab and return any unused portion of the samples.

~~((11))~~ (12) Labs certified as meeting the ~~((board's))~~ WSLCB's accreditation requirements are not limited in the amount of usable marijuana and marijuana products they may have on their premises at any given time, but they must have records to prove all marijuana and marijuana-infused prod-

ucts only for the testing purposes described in WAC 314-55-102.

~~((12))~~ (13) At the discretion of the ~~((board))~~ WSLCB, a producer or processor must provide an employee of the ~~((board))~~ WSLCB or their designee samples in the amount listed in subsection ~~((9))~~ (10) of this section or samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. Samples may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other quality assurance tests deemed necessary by the ~~((board))~~ WSLCB. All costs of this testing will be borne by the producer or processor.

~~((13))~~ (14) No lot of usable flower, batch of marijuana concentrate, or batch of marijuana-infused product may be sold or transported until the completion of all required quality assurance testing. Business entities with multiple locations licensed under the same UBI number may transfer marijuana products between the licensed locations under their UBI number prior to quality assurance testing.

~~((14))~~ (15) Any usable marijuana or marijuana-infused product that passed the required quality assurance tests may be labeled as "Class A." Only "Class A" usable marijuana or marijuana-infused product will be allowed to be sold.

~~((15))~~ (16) Upon approval of the ~~((board))~~ WSLCB, a lot that fails a quality assurance test and the associated trim, leaf and other usable material may be used to create extracts

using hydrocarbon or CO₂ closed loop system. After processing, the CO₂ or hydrocarbon based extract must still pass all required quality assurance tests in WAC 314-55-102.

~~((16))~~ (17) At the request of the producer or processor, the ~~((board))~~ WSLCB may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor.

~~((17))~~ (18) Labs must report all required quality assurance test results directly into ~~((LCB's))~~ the WSLCB's seed to sale traceability system within twenty-four hours of completion. Labs must also record in the seed to sale traceability system an acknowledgment of the receipt of samples from producers or processors and verify if any unused portion of the sample was destroyed or returned to the licensee.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-103 Good laboratory practice checklist. A third-party testing lab must be certified by the ~~((Washington state liquor control board))~~ WSLCB~~((s))~~ or its vendor as meeting the ~~((board's))~~ WSLCB's accreditation and other requirements prior to conducting required quality assurance tests. The following checklist will be used by the ~~((board))~~ WSLCB or its vendor to certify third-party testing labs:

ORGANIZATION	Document Reference	Y	N	NA	Comments
1. The laboratory or the organization of which it is a part of shall be an entity that can be held legally responsible.	-	-	-	-	-
2. The laboratory conducting third-party testing shall have no financial interest in a licensed producer or processor for which testing is being conducted.	-	-	-	-	-
If the laboratory is part of an organization performing activities other than testing and/or calibration, the responsibilities of key personnel in the organization that have an involvement or influence on the testing and/or calibration activities of the laboratory shall be defined in order to identify potential conflicts of interest.	-	-	-	-	-
3. The laboratory shall have policies and procedures to ensure the protection of its client's confidential information and proprietary rights, including procedures for protecting the electronic storage and transmission of results.	-	-	-	-	-
4. The laboratory is responsible for all costs of initial certification and ongoing site assessments.	-	-	-	-	-
5. The laboratory must agree to site assessments every two years to maintain certification.	-	-	-	-	-
6. The laboratory must allow WSLCB staff or their representative to conduct physical visits and check I-502 related laboratory activities at any time.	-	-	-	-	-

ORGANIZATION	Document Reference	Y	N	NA	Comments
7. The laboratory must report all test results directly into WSLCB's traceability system within twenty-four hours of completion. Labs must also record in the traceability system an acknowledgment of the receipt of samples from producers or processors and verify if any unused portion of the sample was destroyed or returned to the customer.	-	-	-	-	-
HUMAN RESOURCES	Document Reference	Y	N	NA	Comments
8. Job descriptions for owners and all employees: Key staff.	-	-	-	-	-
9. Qualifications of owners and staff: CVs for staff on file.	-	-	-	-	-
a. Have technical management which has overall responsibility for the technical operations and the provision of the resources needed to ensure the required quality of laboratory operations.	-	-	-	-	-
b. Documentation that the scientific director meets the requirements of WSLCB rules.	-	-	-	-	-
c. Chain of command, personnel organization/flow chart, dated and signed by the laboratory director.	-	-	-	-	-
d. Written documentation of delegation of responsibilities (assigned under chapter 314-55 WAC as related to quality assurance testing) to qualified personnel, signed and dated by the laboratory director.	-	-	-	-	-
e. Documentation of employee competency: Prior to independently analyzing samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls). Dated and signed by the laboratory director.	-	-	-	-	-
f. Designate a quality manager (however named) who, irrespective of other duties and responsibilities, shall have defined responsibility and authority for ensuring that the quality system is implemented and followed; the quality manager shall have direct access to the highest level of management at which decisions are made on laboratory policy or resources.	-	-	-	-	-
10. Written and documented system detailing the qualifications of each member of the staff.	-	-	-	-	-
The need to require formal qualification or certification of personnel performing certain specialized activities shall be evaluated and implemented where necessary.	-	-	-	-	-
11. Standard operating procedure manual that details records of internal training provided by facility for staff. Laboratory director must approve, sign and date each procedure.	-	-	-	-	-
a. Instructions on regulatory inspection and preparedness.	-	-	-	-	-
b. Instruction on law enforcement interactions.	-	-	-	-	-
c. Information on U.S. federal laws, regulations, and policies relating to individuals employed in these operations, and the implications of these for such employees.	-	-	-	-	-

HUMAN RESOURCES	Document Reference	Y	N	NA	Comments
d. Written and documented system of employee training on hazards (physical and health) of chemicals in the workplace, including prominent location of MSDS sheets and the use of appropriate PPE.	-	-	-	-	-
e. Written and documented system on the competency of personnel on how to handle chemical spills and appropriate action; spill kit on-site and well-labeled, all personnel know the location and procedure.	-	-	-	-	-
f. Information on how employees can access medical attention for chemical or other exposures, including follow-up examinations without cost or loss of pay.	-	-	-	-	-
g. Biosafety and sterile technique training.	-	-	-	-	-

STANDARD OPERATING PROCEDURES	Document Reference	Y	N	NA	Comments
12. As appropriate, laboratory operations covered by procedures shall include, but not be limited to, the following:	-	-	-	-	-
a. Environmental, safety and health activities;	-	-	-	-	-
b. Sample shipping and receipt;	-	-	-	-	-
c. Laboratory sample chain of custody and material control;	-	-	-	-	-
d. Notebooks/logbooks;	-	-	-	-	-
e. Sample storage;	-	-	-	-	-
f. Sample preparation;	-	-	-	-	-
g. Sample analysis;	-	-	-	-	-
h. Standard preparation and handling;	-	-	-	-	-
i. Postanalysis sample handling;	-	-	-	-	-
j. Control of standards, reagents and water quality;	-	-	-	-	-
k. Cleaning of glassware;	-	-	-	-	-
l. Waste minimization and disposition.	-	-	-	-	-
13. The following information is required for procedures as appropriate to the scope and complexity of the procedures or work requested:	-	-	-	-	-
a. Scope (e.g., parameters measured, range, matrix, expected precision, and accuracy);	-	-	-	-	-
b. Unique terminology used;	-	-	-	-	-
c. Summary of method;	-	-	-	-	-
d. Interferences/limitations;	-	-	-	-	-
e. Approaches to address background corrections;	-	-	-	-	-
f. Apparatus and instrumentation;	-	-	-	-	-
g. Reagents and materials;	-	-	-	-	-
h. Hazards and precautions;	-	-	-	-	-
i. Sample preparation;	-	-	-	-	-
j. Apparatus and instrumentation setup;	-	-	-	-	-
k. Data acquisition system operation;	-	-	-	-	-
l. Calibration and standardization;	-	-	-	-	-

STANDARD OPERATING PROCEDURES	Document Reference	Y	N	NA	Comments
m. Procedural steps;	-	-	-	-	-
n. QC parameters and criteria;	-	-	-	-	-
o. Statistical methods used;	-	-	-	-	-
p. Calculations;	-	-	-	-	-
q. Assignment of uncertainty;	-	-	-	-	-
r. Forms used in the context of the procedure.	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
14. Allocation of space: Adequate for number of personnel and appropriate separation of work areas.	-	-	-	-	-
15. Arrangement of space.	-	-	-	-	-
a. Allows for appropriate work flow, sampling, lab space separate from office and break areas.	-	-	-	-	-
b. Employee bathroom is separate from any laboratory area.	-	-	-	-	-
16. Adequate eyewash/safety showers/sink.	-	-	-	-	-
17. Procurement controls.	-	-	-	-	-
a. The laboratory shall have procedure(s) for the selection and purchasing of services and supplies it uses that affect the quality of the tests and/or calibrations. Procedures shall exist for the purchase, receipt and storage of reagents and laboratory consumable materials relevant for the tests and calibrations.	-	-	-	-	-
b. The laboratory shall ensure that purchased supplies and reagents and consumable materials that affect the quality of tests and/or calibrations are inspected or otherwise verified as complying with standard specifications or requirements defined in the methods for the tests and/or calibrations concerned.	-	-	-	-	-
c. Prospective suppliers shall be evaluated and selected on the basis of specified criteria.	-	-	-	-	-
d. Processes to ensure that approved suppliers continue to provide acceptable items and services shall be established and implemented.	-	-	-	-	-
e. When there are indications that subcontractors knowingly supplied items or services of substandard quality, this information shall be forwarded to appropriate management for action.	-	-	-	-	-
18. Utilities.	-	-	-	-	-
a. Electrical:	-	-	-	-	-
i. Outlets: Adequate, unobstructed, single-use, no multiplug adaptors;	-	-	-	-	-
ii. No extension cords;	-	-	-	-	-
iii. Ground fault circuit interrupters near wet areas.	-	-	-	-	-
b. Plumbing:	-	-	-	-	-
i. Appropriateness of sink usage: Separate for work/personal use;	-	-	-	-	-
ii. Adequate drainage from sinks or floor drains;	-	-	-	-	-
iii. Hot and cold running water.	-	-	-	-	-
c. Ventilation:	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
i. Areas around solvent use or storage of waste solvent;	-	-	-	-	-
ii. Vented hood for any microbiological analysis - Class II Type A biosafety cabinet.	-	-	-	-	-
d. Vacuum: Appropriate utilities/traps for prevention of contamination.	-	-	-	-	-
e. Shut-off controls: Located outside of the laboratory.	-	-	-	-	-
19. Waste disposal: Appropriate for the type of waste and compliant with WAC 314-55-097((5)) Marijuana waste disposal—Liquids and solids.	-	-	-	-	-
20. Equipment list.	-	-	-	-	-
Equipment and/or systems requiring periodic maintenance shall be identified and records of major equipment shall include:	-	-	-	-	-
a. Name;	-	-	-	-	-
b. Serial number or unique identification;	-	-	-	-	-
c. Date received and placed in service;	-	-	-	-	-
d. Current location;	-	-	-	-	-
e. Condition at receipt;	-	-	-	-	-
f. Manufacturer's instructions;	-	-	-	-	-
g. Date of calibration or date of next calibration;	-	-	-	-	-
h. Maintenance;	-	-	-	-	-
i. History of malfunction.	-	-	-	-	-
21. Maintenance.	-	-	-	-	-
a. Regular preventive maintenance of equipment demonstration in logbook including, but not limited to: Thermometer calibration, pipette calibrations, analytical balances, and analytical equipment. Documentation of a schedule and reviewed by the laboratory director.	-	-	-	-	-
b. Documentation of curative maintenance in logbook, signed and dated by laboratory director.	-	-	-	-	-
c. Temperature maintenance logbook for refrigerators.	-	-	-	-	-
d. Decontamination and cleaning procedures for:	-	-	-	-	-
i. Instruments;	-	-	-	-	-
ii. Bench space;	-	-	-	-	-
iii. Ventilation hood.	-	-	-	-	-
e. Documentation of adequacy of training of personnel and responsibility for each maintenance task.	-	-	-	-	-
f. The organization shall describe or reference how periodic preventive and corrective maintenance of measurement or test equipment shall be performed to ensure availability and satisfactory performance of the systems.	-	-	-	-	-
22. Computer systems.	-	-	-	-	-
a. Adequate for sample tracking.	-	-	-	-	-
b. Adequate for analytical equipment software.	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
c. Software control requirements applicable to both commercial and laboratory developed software shall be developed, documented, and implemented.	-	-	-	-	-
d. In addition, procedures for software control shall address the security systems for the protection of applicable software.	-	-	-	-	-
e. For laboratory-developed software, a copy of the original program code shall be:	-	-	-	-	-
i. Maintained;	-	-	-	-	-
ii. All changes shall include a description of the change, authorization for the change;	-	-	-	-	-
iii. Test data that validates the change.	-	-	-	-	-
f. Software shall be acceptance tested when installed, after changes, and periodically during use, as appropriate.	-	-	-	-	-
g. Testing may consist of performing manual calculations or checking against another software product that has been previously tested, or by analysis of standards.	-	-	-	-	-
h. The version and manufacturer of the software shall be documented.	-	-	-	-	-
i. Commercially available software may be accepted as supplied by the vendor. For vendor supplied instrument control/data analysis software, acceptance testing may be performed by the laboratory.	-	-	-	-	-
23. Security.	-	-	-	-	-
a. Written facility security procedures during operating and non-working hours.	-	-	-	-	-
b. Roles of personnel in security.	-	-	-	-	-
c. SOP for controlled access areas and personnel who can access.	-	-	-	-	-
d. Secured areas for log-in of sample, and for short and long-term storage of samples.	-	-	-	-	-
24. Storage.	-	-	-	-	-
a. Appropriate and adequate for sample storage over time. The laboratory shall monitor, control and record environmental conditions as required by the relevant specifications, methods and procedures or where they influence the quality of the results. Due attention shall be paid, for example, to biological sterility, dust, electromagnetic disturbances, humidity, electrical supply, temperature, and sound and vibration levels, as appropriate to the technical activities concerned.	-	-	-	-	-
b. Adequate storage of chemical reference standards.	-	-	-	-	-
c. Appropriate storage of any reagents: Fireproof cabinet, separate cabinet for storage of any acids.	-	-	-	-	-
d. Appropriate safe and secure storage of documents etc., archiving, retrieval of, maintenance of and security of data for a period of three years.	-	-	-	-	-
QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
25. Sampling/sample protocols: Written and approved by the laboratory director.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
a. Demonstrate adequacy of the chain-of-custody tracking upon receipt of sample including all personnel handling the sample.	-	-	-	-	-
b. Sampling method (representative of an entire batch) including, but not limited to, homogenization, weighing, labeling, sample identifier (source, lot), date and tracking.	-	-	-	-	-
c. Condition of the sample: Macroscopic and foreign matter inspection - Fit for purpose test. Scientifically valid testing methodology: Either AHP monograph compliant, other third-party validation.	-	-	-	-	-
d. Failed inspection of product: Tracking and reporting.	-	-	-	-	-
e. Return of failed product documentation and tracking.	-	-	-	-	-
f. Disposal of used/unused samples documentation.	-	-	-	-	-
g. Sample preparation, extraction and dilution SOP.	-	-	-	-	-
h. Demonstration of recovery for samples in various matrices (SOPs):	-	-	-	-	-
i. Plant material - Flower;	-	-	-	-	-
ii. Edibles (solid and liquid meant to be consumed orally);	-	-	-	-	-
iii. Topical;	-	-	-	-	-
iv. Concentrates.	-	-	-	-	-
26. Data protocols.	-	-	-	-	-
a. Calculations for quantification of cannabinoid content in various matrices - SOPs.	-	-	-	-	-
b. Determination of the range for reporting the quantity (LOD/LOQ) data review or generation.	-	-	-	-	-
c. Reporting of data: Certificates of analysis (CA) - Clear and standardized format for consumer reporting.	-	-	-	-	-
d. Documentation that the value reported in the CA is within the range and limitations of the analytical method.	-	-	-	-	-
e. Documentation that qualitative results (those below the LOQ but above the LOD) are reported as "trace," or with a nonspecific (numerical) designation.	-	-	-	-	-
f. Documentation that the methodology has the specificity for the degree of quantitation reported. Final reports are not quantitative to any tenths or hundredths of a percent.	-	-	-	-	-
g. Use of appropriate "controls": Documentation of daily use of positive and negative controls that challenge the linearity of the curve; and/or an appropriate "matrix blank" and control with documentation of the performance for each calibration run.	-	-	-	-	-
27. Chemical assay procedure/methodology.	-	-	-	-	-
28. Proficiency:	-	-	-	-	-
a. Documentation of use of an appropriate internal standard for any quantitative measurements as applicable to the method.	-	-	-	-	-
b. Appropriate reference standards for quantification of analytes, performing and documenting a calibration curve with each analysis.	-	-	-	-	-
c. Demonstration of calibration curve r ² value of no less than 0.995 with a minimum of four points within the range.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
d. Documentation of any proficiency testing as it becomes available. Laboratory director must review, evaluate and report to the WSLCB any result that is outside the stated acceptable margin of error.	-	-	-	-	-
29. Method validation: Scientifically valid testing methodology: Either AHP monograph compliant, other third-party validation; or	-	-	-	-	-
30. Level II validation of methodology used for quantification of THC, THCA and CBD for total cannabinoid content (if reporting other cannabinoids, the method must also be validated for those compounds):	-	-	-	-	-
a. Single lab validation parameters are demonstrated for GC, HPLC data review:	-	-	-	-	-
i. Linearity of reference standards;	-	-	-	-	-
ii. Use of daily standard curve;	-	-	-	-	-
iii. Accuracy;	-	-	-	-	-
iv. Precision;	-	-	-	-	-
v. Recovery (5 determinations not less than 90%);	-	-	-	-	-
vi. Reproducibility over time within a relative standard deviation of 5%.	-	-	-	-	-
b. Dynamic range of the instrumentation: Limits of quantification (LOQ) and limits of detection (LOD).	-	-	-	-	-
c. Matrix extensions for each type of product tested, data review of recovery for:	-	-	-	-	-
i. Solvent-based extract;	-	-	-	-	-
ii. CO ₂ extraction or other "hash oil";	-	-	-	-	-
iii. Extract made with food grade ethanol;	-	-	-	-	-
iv. Extract made with food grade glycerin or propylene glycol;	-	-	-	-	-
v. Infused liquids;	-	-	-	-	-
vi. Infused solids;	-	-	-	-	-
vii. Infused topical preparations;	-	-	-	-	-
viii. Other oils, butter or fats.	-	-	-	-	-
d. Presence of QC samples and recording of daily testing.	-	-	-	-	-
e. Appropriate use of an internal reference standard.	-	-	-	-	-
f. Daily monitoring of the response of the instrument detection system.	-	-	-	-	-
31. Other methods.	-	-	-	-	-
a. Microbiological methods fit for purpose.	-	-	-	-	-
b. Microbial contaminants within limits of those listed in the most recent AHP monograph and otherwise directed by WSLCB.	-	-	-	-	-
c. Moisture content testing fit for purpose. Scientifically valid testing methodology: Either AHP monograph compliant, other third-party validation.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
d. Solvent residuals testing fit for purpose; solvent extracted products made with class 3 or other solvents used are not to exceed ((0.5% residual solvent by weight or)) 500 parts per million (PPM) per one gram of solvent based product and are to be tested.	-	-	-	-	-
e. Any other QA/QC methods is proven to be fit for purpose.	-	-	-	-	-
32. Laboratory notebooks.	-	-	-	-	-
a. Legible and in ink (or computerized system).	-	-	-	-	-
b. Signed and dated.	-	-	-	-	-
c. Changes initialed and dated.	-	-	-	-	-
d. Periodically reviewed and signed by a management representative.	-	-	-	-	-
33. Preventive/corrective action.	-	-	-	-	-
The laboratory shall have a process in place to document quality affecting preventive/corrective actions through resolution.	-	-	-	-	-
34. Periodic management review.	-	-	-	-	-
Laboratory management shall periodically review its quality system and associated procedures to evaluate continued adequacy. This review shall be documented.	-	-	-	-	-

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-104 Marijuana processor license extraction requirements. (1) Processors are limited to certain methods, equipment, solvents, gases and mediums when creating marijuana extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the ((board)) WSLCB. These solvents must be of at least ninety-nine percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch. The CO₂ must be of at least ninety-nine percent purity.

(4) Closed loop systems for hydrocarbon or CO₂ extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

(5) Certification from a licensed engineer must be provided to the ((liquor control board)) WSLCB for professional grade closed loop systems used by processors to certify that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:

- (a) The American Society of Mechanical Engineers (ASME);
- (b) American National Standards Institute (ANSI);
- (c) Underwriters Laboratories (UL); or

(d) The American Society for Testing and Materials (ASTM).

((5)) (6) The certification document must contain the signature and stamp of a professional engineer and the serial number of the ex-traction unit being certified.

(7) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

- (a) Title 296 WAC;
- (b) Chapters 51-51 and 51-54A WAC;
- (c) National Fire Protection Association (NFPA) standards;

((6)) (d) International Building Code (IBC);
 ((4)) (e) International Fire Code (IFC); and
 ((5)) (f) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

((6)) (8) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

((7)) (9) Under WAC 314-55-077, infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale.

((8)) (10) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

~~((9))~~ (11) Processors creating marijuana extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

~~((10))~~ (12) Parts per million for one gram of finished extract cannot exceed 500 parts per million or residual solvent or gas when quality assurance tested per RCW 69.50.348.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-105 Packaging and labeling requirements. (1) All usable marijuana and marijuana-infused products must be stored behind a counter or other barrier to ensure a customer does not have direct access to the product.

(2) Any container or packaging containing usable marijuana, marijuana concentrates, or marijuana-infused products must protect the product from contamination and must not impart any toxic or deleterious substance to the usable marijuana, marijuana concentrates, or marijuana-infused product.

(3) Upon the request of a retail customer, a retailer must disclose the name of the ~~((accredited))~~ certified third-party testing lab and results of the required quality assurance test for any usable marijuana, marijuana concentrate, or marijuana-infused product the customer is considering purchasing.

(4) Usable marijuana, marijuana concentrates, and marijuana-infused products ~~((may))~~ must not be labeled as organic unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(5) The ~~((accredited))~~ certified third-party testing lab and required results of the quality assurance test must be included with each lot and disclosed to the customer buying the lot.

(6) A marijuana producer must make quality assurance test results available to any processor purchasing product. A marijuana producer must label each lot of marijuana with the following information:

- (a) Lot number;
- (b) UBI number of the producer; and
- (c) Weight of the product.

(7) Marijuana-infused products and marijuana concentrates meant to be eaten, swallowed, or inhaled, must be packaged in child resistant packaging in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act or use standards specified in this subsection. Marijuana-infused product in solid or liquid form may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap as to make it difficult for a child to open and as a tamperproof measure. Marijuana-infused product in liquid form may also be sealed using a metal crown cork style bottle cap.

Marijuana-infused solid edible products. If there is more than one serving in the package, each serving must be pack-

aged individually in childproof packaging (see WAC 314-55-105(7)) and placed in the outer package.

Marijuana-infused liquid edible products. If there is more than one serving in the package, a measuring device must be included in the package with the product. Hash marks on the bottle do not qualify as a measuring device. A measuring cap or dropper must be included in the package with the marijuana-infused liquid edible product.

~~(8) ((A processor may provide a retailer free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow customers to smell the product before purchase. The sample jar may not contain more than three and one-half grams of usable marijuana. The sample jar and the usable marijuana within may not be sold to a customer and must be returned to the licensed processor who provided the usable marijuana and sample jar.~~

~~(9) A producer or processor may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the usable marijuana.~~

~~((10))~~ Labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling Regulation adopted in chapter 16-662 WAC.

~~((11))~~ **(9) All ((usable)) marijuana and marijuana products when sold at retail must include accompanying material that ((contains)) is attached to the package or is given separately to the consumer containing the following warnings ((that state)):**

(a) "Warning: This product has intoxicating effects and may be habit forming. Smoking is hazardous to your health";

(b) "There may be health risks associated with consumption of this product";

(c) "Should not be used by women that are pregnant or breast feeding";

(d) "For use only by adults twenty-one and older. Keep out of reach of children";

(e) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";

(f) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.

~~((12) All marijuana concentrates and marijuana-infused products sold at retail must include accompanying material that contains the following warnings that state:~~

~~(a) "There may be health risks associated with consumption of this product";~~

~~(b) "This product is infused with marijuana or active compounds of marijuana";~~

~~(c) "Should not be used by women that are pregnant or breast feeding";~~

~~(d) "For use only by adults twenty-one and older. Keep out of reach of children";~~

~~(e) "Products containing marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug";~~

~~(f) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours";~~

~~(g) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to the infused product; and~~

~~(h) Statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.~~

~~(13)) (10) Labels affixed to the container or package containing ((usable)) marijuana or marijuana products sold at retail must include:~~

~~(a) The business or trade name and the sixteen digit Washington state unified business identifier number of the licensees that produced, processed and sold the ((usable)) marijuana or marijuana products. The marijuana retail licensee trade name and Washington state unified business identifier number may be in the form of a sticker placed on the label;~~

~~(b) Sixteen digit inventory ID number assigned by the ((liquor control board's)) WSLCB's traceability system. This must be the same number that appears on the transport manifest;~~

~~(c) (Concentration of THC, (total THC and activated THC A), and CBD;~~

~~((d)) Net weight in ounces and grams or volume as appropriate;~~

~~((e)) (d) Statement that discloses all pesticides applied to the marijuana plants and growing medium during production of the base marijuana used to create the extract added to infused products; and~~

~~(e) If solvents were used, statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.~~

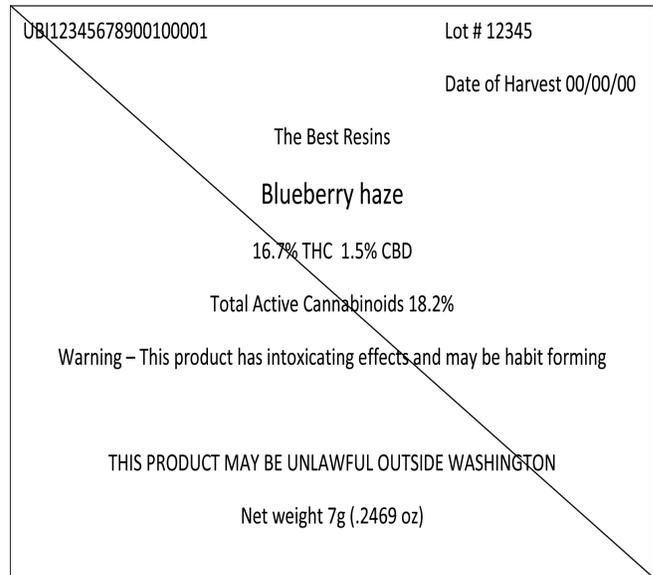
~~(f) Warnings that state: "This product has intoxicating effects and may be habit forming";~~

~~((f)) (g) Statement that "This product may be unlawful outside of Washington state";~~

~~((g) Date of harvest; and)~~

~~(h) The ((board)) WSLCB may create a logo that must be placed on all usable marijuana and marijuana-infused products.~~

~~((14) Sample label mock up for a container or package containing usable marijuana sold at retail with required information:~~



~~(15) Labels affixed to the container or package containing marijuana infused products sold at retail must include:~~

~~(a) The business or trade name and Washington state unified business identifier number of the licensees that produced, processed and sold the marijuana. The marijuana retail licensee trade name and Washington state unified business identifier number may be in the form of a sticker placed on the label;~~

~~(b) Inventory ID number assigned by the liquor control board's traceability system. This must be the same number that appears on the transport manifest;~~

~~(c) Date manufactured;~~

~~(d) Best by date;~~

~~(e) Products meant to be eaten or swallowed, recommended serving size and the number of servings contained within the unit, including total milligrams of active tetrahydrocannabinol (THC), or Delta 9;~~

~~(f) Net weight in ounces and grams, or volume as appropriate;~~

~~(g) List of all ingredients and major food allergens as defined in the Food Allergen Labeling and Consumer Protection Act of 2004;~~

~~(h) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours.";~~

~~(i) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;~~

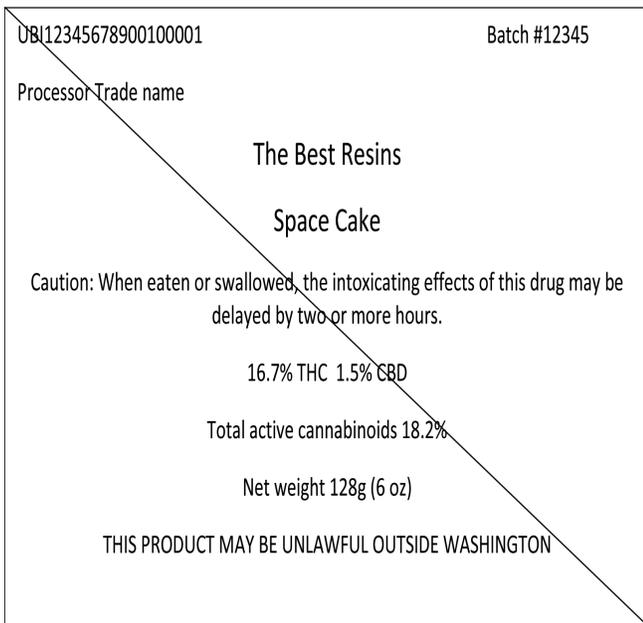
~~(j) Warnings that state: "This product has intoxicating effects and may be habit forming";~~

~~(k) Statement that "This product may be unlawful outside of Washington state";~~

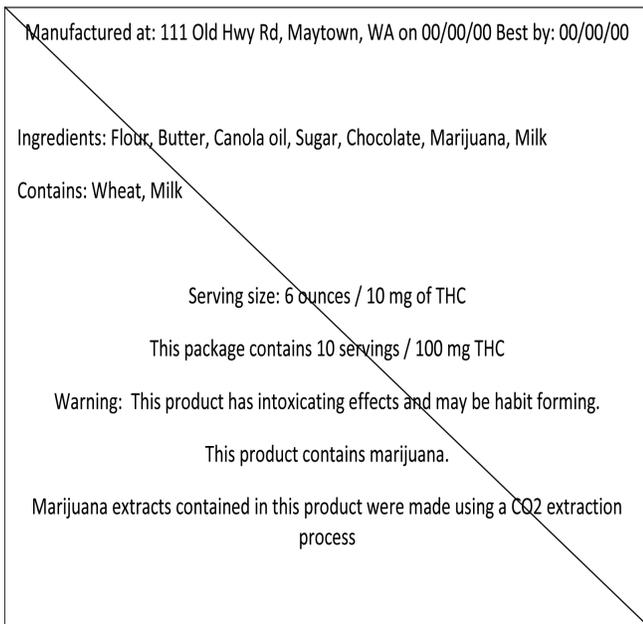
~~(l) The board may create a logo that must be placed on all usable marijuana and marijuana-infused products.~~

~~(16) Sample label mock up (front and back) for a container or package containing marijuana infused products sold at retail with required information:~~

(Front of label)



(Back of label)



(17) Labels affixed to the container or package containing marijuana concentrates sold at retail must include:

(a) The business or trade name and Washington state unified business identifier number of the licensee that produced, processed and sold the marijuana concentrate. The marijuana retail licensee trade name and Washington state unified business identifier may be in the form of a sticker placed on the label;

(b) Inventory ID number assigned by the liquor control board traceability system. This must be the same number that appears on the transportation manifest;

(c) Date manufactured;
(d) Best by date;
(e) Net weight in ounces and grams, or volume as appropriate;

(f) If a marijuana extract was added to the product, disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the extract;

(g) Concentration of THC (total Delta 9 and Delta 9 THC-A) and CBD;

(h) Warnings that state "This product has intoxicating effects and may be habit forming";

(i) Statement that "This product may be unlawful outside Washington state"; and

(j) The board may create a logo that must be placed on all usable marijuana and marijuana infused products.)) **(11) In addition to requirements in subsection (10) of this section, labels affixed to the container or package containing usable marijuana, or packaged marijuana mix sold at retail must include:**

(a) Concentration of THC (total THC and activated THC-A) and CBD (total CBD and activated CBD-A);

(b) Date of harvest.

(12) In addition to requirements in subsection (10) of this section, labels affixed to the container or package containing marijuana-infused products meant to be eaten or swallowed sold at retail must include:

(a) Date manufactured;

(b) Best by date;

(c) Serving size and the number of servings contained within the unit;

(d) Total milligrams of active THC, or Delta 9 and total milligrams of active CBD;

(e) List of all ingredients and major food allergens as defined in the Food Allergen Labeling and Consumer Protection Act of 2004;

(f) "Caution: When eaten or swallowed, the intoxicating effects of this drug may be delayed by two or more hours."

(13) In addition to requirements in subsection (10) of this section, labels affixed to the container or package containing marijuana-infused extract for inhalation, or infused marijuana mix sold at retail must include:

(a) Date manufactured;

(b) Best by date;

(c) Concentration of THC (total Delta 9 and Delta 9 THC-A) and CBD (total CBD and activated CBD-A).

(14) In addition to requirements in subsection (10) of this section, labels affixed to the container or package containing marijuana topicals sold at retail must include:

(a) Date manufactured;

(b) Best by date;

(c) Total milligrams of active tetrahydrocannabinol (THC), or Delta 9 and total milligrams of active CBD.

(15) Other cannabinoids and terpenes may be included on the label if:

(a) The producer or processor has test results from a certified third-party lab to support the claim; and

(b) The lab results are made available to the consumer upon request.

NEW SECTION

WAC 314-55-110 What are my responsibilities as a marijuana licensee? (1) Marijuana licensees are responsible for the operation of their licensed business in compliance with the marijuana laws and rules of the WSLCB, chapters 69.50 and 69.51A RCW, 314-55 WAC, and any other applicable state laws and rules.

(2) The penalties for violations of marijuana laws or rules are in WAC 314-55-515 through 314-55-535, as now or hereafter amended. The rules also outline aggravating and mitigating circumstances that may affect what penalty is applied if a licensee or employee violates a marijuana law or rule.

(3) Licensees and their employees must conduct the business and maintain the licensed premises, surrounding area, and vehicles transporting product, in compliance with the following laws, as they now exist or may later be amended:

- (a) Titles 9 and 9A RCW, the criminal code;
- (b) Title 66 RCW, the liquor laws;
- (c) Chapters 70.155, 82.24, and 82.26 RCW and RCW 26.28.080, the tobacco laws;
- (d) Chapter 69.50 RCW, the uniform controlled substances laws; and
- (e) Chapter 69.51A RCW, the medical marijuana laws.

(4) Licensees have the responsibility to control their conduct and the conduct of employees, customers, and visitors on the licensed premises at all times. Except as otherwise provided by law, licensees or employees may not:

- (a) Be disorderly or apparently intoxicated by liquor, marijuana, or controlled substances on the licensed premises;
- (b) Permit any disorderly person to remain on the licensed premises;
- (c) Engage in or allow behavior on the licensed premises that provokes conduct which presents a threat to public safety;
- (d) Engage, or permit any employee or other person to engage in, conduct on the licensed premises which is prohibited by any portion of Title 9, 9A, or 66 RCW, or chapters 69.50 and 69.51A RCW;
- (e) Engage in or permit any employee or other person to engage in the consumption of any type of marijuana, usable marijuana, marijuana concentrate, or marijuana-infused product on the licensed premises.

NEW SECTION

WAC 314-55-115 What method of payment can a marijuana licensee use to purchase marijuana? A marijuana licensee must pay cash for marijuana prior to or at the time of delivery. The WSLCB will recognize the following forms of payment as cash payment for the purpose of this section.

- (1) **Checks.**
- (2) **Credit/debit cards,** under the following provisions:
 - (a) The credit or debit card transaction agreement must be voluntary on the part of both licensees, and there must be no discrimination for nonparticipation in credit or debit card transactions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective banking costs or other costs associated with the credit or debit card service.

(d) Both parties must maintain records of transactions and have the records readily available for the WSLCB review.

(e) The credit or debit card charge must be initiated by the industry member no later than the first business day following delivery.

(3) **Electronic funds transfer (EFT),** under the following provisions:

(a) The EFT agreement must be voluntary on the part of both the licensees, and there must be no discrimination for nonparticipation in EFT.

(b) Prior to any EFT transaction, the retail licensee must enter into a written agreement specifying the terms and conditions for EFT as payment for marijuana.

(c) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(d) Both parties must bear their respective banking costs or other costs associated with EFT service.

(e) Both parties must maintain records of transactions and have the records readily available for the WSLCB review.

(f) The electronic funds transfer must be initiated by the retailer or industry member no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a retailer to delay payment on EFT transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(4) **Prepaid accounts.** Both parties must keep accurate accounting records of prepaid accounts to ensure a cash deposit is not overextended, which is considered an extension of credit.

(5) Any transaction reported as having nonsufficient funds (NSF) will be considered an extension of credit. If a transaction is reported as NSF:

(a) The purchaser must pay the full amount of the transaction to the seller by 3:00 p.m. on the first business day following receipt of the NSF report.

(b) Until the NSF transaction is paid:

(i) The marijuana licensee who received the NSF transaction will not deliver any marijuana to the purchaser; and

(ii) It is the responsibility of the purchaser to not receive additional marijuana from any other marijuana licensee.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-120 Ownership changes. (1) Licensees must receive prior board approval before making any of the following ownership changes (see WAC 314-55-035 for the definition of "true party of interest"):

Type of change	Type of application	Fee
Change in the qualifying persons in a: Sole proprietorship, general partnership, limited partnership, or limited liability partnership.	New application.	Application fee and annual fee for current license privilege.
Change in the qualifying persons for a publicly or privately held corporation. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.	Application for change in corporate officer and/or stockholder.	\$75
Change in the qualifying persons in a limited liability company.	Application for change of limited liability company member and/or manager.	\$75
<u>Accepting additional funds from a new or previously approved financier.</u>	<u>Added financier.</u>	<u>\$75</u>

(2) The ~~((board))~~ WSLCB may inquire into all matters in connection with any such sale of stock/units or proposed change in officers/members.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-130 Change of business name. (1) If ~~((you wish))~~ a licensee wishes to change the name of ~~((your))~~ their business, ~~((you))~~ the licensee must apply for a change of trade name with the department of revenue, business license service.

(2) If ~~((you wish))~~ a licensee wishes to change ~~((your))~~ their corporation or limited liability company name, ~~((you))~~ the licensee must apply for a change of name through the secretary of state.

(3) See chapter 434-12 WAC for guidelines for trade names.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-135 Discontinue marijuana sales. (1) **Notification:** ~~((You))~~ A licensee must notify the ~~((board's))~~ WSLCB's enforcement and education division in writing if ~~((you))~~ the licensee plans to stop doing business for more than thirty days, or if ~~((you))~~ the licensee plans to permanently discontinue marijuana sales.

(2) **Discontinued business: Sale of marijuana inventory and stock after discontinuance of business.** Notwithstanding any other provision of Title 69 RCW or 314 WAC, a producer, processor or retail licensee who permanently discontinues business for any reason shall dispose of the salable inventory and remaining stock to a ~~((board))~~ WSLCB approved licensed business at fair market value. Sales below cost are prohibited. The ~~((board))~~ WSLCB shall require tax expressed as a percent of the total price of the gross sales as reported on the profit and loss statement in the last published monthly report of the ~~((board))~~ WSLCB. In the event of remaining inventory after sale, the licensee shall notify the enforcement and education division of the ~~((liquor control board))~~ WSLCB. The enforcement division will establish conditions for destruction or arrange for the removal of product.

(3) **Assumptions: Assumption of license and purchases by licensee of certain marijuana inventory and stock.** In the case of a sale of business with a licensee, after obtaining the approval of the ~~((board))~~ WSLCB and under the supervision of a representative of the ~~((board))~~ WSLCB, the licensee may sell the entire inventory at a negotiated fair market price. Sales below cost are prohibited.

(4) **Evictions.** ~~((You))~~ A licensee must notify the ~~((board's))~~ WSLCB's enforcement and education division immediately in writing upon notice of eviction from a licensed premises. Conditions to temporarily relocate and secure inventory will be established by the ~~((board))~~ WSLCB.

(5) **Abandoned marijuana inventory or product.** In the event a licensee abandons any marijuana on the premises, the property owner or their designated representative should notify the enforcement and education division of the ~~((liquor control board))~~ WSLCB. The enforcement division will work with the property owner to arrange for the removal and/or destruction of product. Any sales or distribution of marijuana by an unlicensed person is subject to the criminal provisions of Title 69 RCW.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-140 Death or incapacity of a marijuana licensee. (1) The appointed guardian, executor, administrator, receiver, trustee, or assignee must notify the ~~((board's))~~ WSLCB's licensing and regulation division in the event of the death, incapacity, receivership, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The ~~((board))~~ WSLCB may give the appointed guardian, executor, administrator, receiver, trustee, or assignee written approval to continue marijuana sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a marijuana license for the business.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-147 What hours may a marijuana retailer licensee conduct sales? A marijuana retailer licensee may sell usable marijuana, marijuana concentrates, marijuana-infused products, and marijuana paraphernalia between the hours of 8 a.m. and 12 a.m.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-155 Advertising. (1) **Advertising by retail licensees.** The ~~((board))~~ WSLCB limits each retail licensed premises to ~~((one sign identifying the retail outlet by the licensee's business name or trade name that is affixed or hanging in the windows or on the outside of the premises that is visible to the general public from the public right of way. The size of the))~~ a maximum of two separate signs identifying the retail outlet by the licensee's business name or trade name. Both signs must be affixed to the building or permanent structure and each sign is limited to sixteen hundred square inches.

(2) **General.** All marijuana advertising and labels of ~~((usable))~~ usable marijuana, marijuana concentrates, and marijuana-infused products sold in the state of Washington ~~((may))~~ must not contain any statement, or illustration that:

- (a) Is false or misleading;
- (b) Promotes over consumption;
- (c) Represents the use of marijuana has curative or therapeutic effects;
- (d) Depicts a child or other person under legal age to consume marijuana, or includes:
 - (i) Objects, such as toys, characters, or cartoon characters suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana; or
 - (ii) Is designed in any manner that would be especially appealing to children or other persons under twenty-one years of age.

(3) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, marijuana concentrates, usable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

- (a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged twenty-one years or older;
- (b) On or in a public transit vehicle or public transit shelter; or
- (c) On or in a publicly owned or operated property.

(4) Promotional items such as giveaways, coupons, and distribution of branded or unbranded merchandise are banned.

(5) Marijuana retail licensees holding a medical marijuana endorsement may donate product to qualifying patients or designated providers who hold a valid recognition card. Retail licensees may not advertise "free" or "donated" product.

(6) All advertising must contain the following warnings:

- (a) "This product has intoxicating effects and may be habit forming.";
- (b) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";
- (c) "There may be health risks associated with consumption of this product."; and
- (d) "For use only by adults twenty-one and older. Keep out of the reach of children."

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-160 Objections to marijuana license applications. (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a marijuana license?** Per RCW 69.50.331, the ~~((board))~~ WSLCB will notify cities, counties, tribal governments, and port authorities of the following types of marijuana applications. In addition to these entities, any person or group may comment in writing to the ~~((board))~~ WSLCB regarding an application.

Type of application	Entities the ((board)) WSLCB will/may notify
<ul style="list-style-type: none"> • Applications for an annual marijuana license at a new location. 	<ul style="list-style-type: none"> • Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.
<ul style="list-style-type: none"> • Applications to change the class of an existing annual marijuana license. 	
<ul style="list-style-type: none"> • Changes of ownership at existing licensed premises. 	<ul style="list-style-type: none"> • Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.

(2) **What will happen if a person or entity objects to a marijuana license application?** When deciding whether to issue or deny a marijuana license application, the ~~((board))~~ WSLCB will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and

other persons or groups. Note: Per RCW 69.50.331, the ((board)) WSLCB shall not issue a new marijuana license if any of the following are within one thousand feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, game arcade where admission is not restricted to persons twenty-one years of age or older.

(a) If the ((board)) WSLCB contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the ((board)) WSLCB, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the ((board)) WSLCB denies a marijuana license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the ((board)) WSLCB for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within twenty days of the date the intent to deny notification was mailed.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-165 Objections to marijuana license renewals. (1) How can local cities, counties, tribal governments, or port authorities object to the renewal of a marijuana license?

(a) The ((board)) WSLCB will give governmental jurisdictions approximately ninety days written notice of premises that hold annual marijuana licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a marijuana license in its jurisdiction, it must submit a letter to the ((board)) WSLCB detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the ((board)) WSLCB for an extension for good cause shown.

(d) This letter must be received by the ((board)) WSLCB at least thirty days before the marijuana license expires. The objection must state specific reasons and facts that show issuance of the marijuana license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the ((board)) WSLCB's licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) **What will happen if a city, county, tribal government, or port authority objects to the renewal of a marijuana license?** The ((board)) WSLCB will give substantial weight to a city, county, tribal government, or port authority objection to a marijuana license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the ((board)) WSLCB will decide to either renew the marijuana license, or to pursue nonrenewal.

(a) ((Board)) WSLCB decides to renew the marijuana license:	(b) ((Board)) WSLCB decides to pursue nonrenewal of the marijuana license:
<p>(i) The ((board)) WSLCB will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p> <p>(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the ((board)) WSLCB. The request must be received within twenty days of the date the intent to renew notification was mailed. If the ((board)) WSLCB, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(i) The ((board)) WSLCB will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p> <p>(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the ((board)) WSLCB. The request must be received within twenty days of the date the intent to deny notification was mailed.</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.</p> <p>(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the marijuana license until a final decision is made.</p>

NEW SECTION

WAC 314-55-185 Does the WSLCB have the right to inspect my premises or vehicle licensed to produce, pro-

cess, sell, or transport marijuana? (1) The following must be available for inspection at all times by an enforcement officer of the WSLCB:

(a) All licensed premises used in the production, processing, storage, transportation or sale of marijuana, usable marijuana, marijuana concentrates, marijuana-infused products, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business;

(b) Any vehicle assigned for the purpose of transporting marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products at any licensed location, or while en route during transportation;

(c) Records as outlined in WAC 314-55-087 and 314-55-XXX; and

(d) Marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products on the licensed premises for the purpose of analyzing samples (the licensee will be given a receipt for any product removed from the premises for this purpose).

(2) Every person being on a licensed premises or with a transporting vehicle, or having charge thereof, must admit an enforcement officer of the WSLCB demanding to enter therein in pursuance of this section in the execution of his/her duty, and must not obstruct or attempt to obstruct the entry of such officer, or refuse to allow an officer to examine the premises, vehicles, records, and products subject to this section of the licensee.

AMENDATORY SECTION (Amending WSR 14-07-116, filed 3/19/14, effective 4/19/14)

WAC 314-55-200 How will the ((~~liquor control board~~)) WSLCB identify marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products during checks of licensed businesses? Officers shall identify marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products during on-site inspections of licensed producers, processors, and retailers of marijuana by means of product in the traceability system, and/or by observation based on training and experience. Products that are undetermined to be marijuana, usable marijuana, and marijuana-infused products will be verified by the following:

(1) Officers may take a sample large enough for testing purposes;

(2) Field test kits may be used if available and appropriate for the type of product being verified; and

(3) Those samples not able to be tested with a field test kit may be tested through the Washington state toxicology or crime lab.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-210 Will the ((~~liquor control board~~)) WSLCB seize or confiscate marijuana, marijuana concentrates, usable marijuana, and marijuana-infused products? The ((~~liquor control board~~)) WSLCB may seize ((~~or~~)), destroy, confiscate, or place an administrative hold on marijuana, usable marijuana, marijuana concentrates, and

marijuana-infused products under the following circumstances:

(1) During an unannounced or announced administrative search or inspection of ((~~the~~)) licensed locations, areas of unlicensed locations used for business or commercial purposes, or vehicles involved in the transportation of marijuana products, where any product was found to be in excess of product limitations set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Any product not properly logged in inventory records or untraceable product required to be in the traceability system.

(3) Marijuana, marijuana concentrates, usable marijuana, and marijuana-infused product that are altered or not properly packaged and labeled in accordance with WAC 314-55-105.

(4) During a criminal investigation, officers shall follow seizure laws detailed in RCW 69.50.505 and any other applicable criminal codes.

(5) ((~~Liquor control board~~)) The WSLCB may destroy any marijuana, marijuana concentrate, usable marijuana, and/or marijuana-infused products in its possession that is not identifiable through the Washington marijuana traceability system or otherwise in a form that is not compliant with Washington's marijuana statutes or rules, chapters 69.50 RCW and 314-55 WAC.

(6) WSLCB officers may order an administrative hold of marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products to prevent destruction of evidence, diversion or other threats to public safety, while permitting a licensee to retain its inventory pending further investigation, pursuant to the following procedure:

(a) If during an investigation or inspection of a licensee, a ((~~liquor control board~~)) WSLCB officer develops reasonable grounds to believe certain marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products constitute evidence of acts in violation of the state laws or rules, or otherwise constitute a threat to public safety, the ((~~liquor control board~~)) WSLCB officer may issue a notice of administrative hold of any such marijuana, usable marijuana, marijuana concentrate, or marijuana-infused products. The notice of administrative hold shall provide a documented description of the marijuana, usable marijuana, marijuana concentrate, or marijuana-infused products to be subject to the administrative hold.

(b) The licensee shall completely and physically segregate the marijuana, usable marijuana, marijuana concentrate, and marijuana-infused products subject to the administrative hold in a limited access area of the licensed premises under investigation, where it shall be safeguarded by the licensee. Pending the outcome of the investigation and any related disciplinary proceeding, the licensee is prohibited from selling, giving away, transferring, transporting, or destroying the marijuana, usable marijuana, marijuana concentrate, and marijuana-infused products subject to the administrative hold.

(c) Nothing herein shall prevent a licensee from the continued cultivation or harvesting of the marijuana subject to the administrative hold. All marijuana, usable marijuana, marijuana concentrate, and marijuana-infused products sub-

ject to the administrative hold must be put into separate harvest batches from product not subject to the administrative hold.

(d) Following an investigation, the (~~liquor control board~~) WSLCB may lift the administrative hold, order the continuation of the administrative hold, or seek a final agency order for the destruction of the marijuana, usable marijuana, marijuana concentrate, and marijuana-infused products.

AMENDATORY SECTION (Amending WSR 14-07-116, filed 3/19/14, effective 4/19/14)

WAC 314-55-220 What is the process once the (~~board~~) WSLCB summarily orders marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products of a marijuana licensee to be destroyed?

(1) The (~~board~~) WSLCB may issue an order to summarily destroy marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products after the (~~board's~~) WSLCB's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate destruction of marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Destruction of any marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary destruction order unless otherwise provided in the order.

(3) When a license has been issued a summary destruction order by the (~~board~~) WSLCB, an adjudicative proceeding for the associated violation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee, then a hearing shall be held within ninety days of the effective date of the summary destruction ordered by the (~~board~~) WSLCB.

AMENDATORY SECTION (Amending WSR 14-07-116, filed 3/19/14, effective 4/19/14)

WAC 314-55-230 What are the procedures the (~~liquor control board~~) WSLCB will use to destroy or donate marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products to law enforcement?

(1) The (~~liquor control board~~) WSLCB may require a marijuana licensee to destroy marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products found in a licensed establishment to be in excess of product limits set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Destruction of seized marijuana, usable marijuana, marijuana concentrates, marijuana-infused products, or confiscated marijuana after case adjudication, will conform with (~~liquor control board~~) the WSLCB evidence policies, to include the option of donating marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products, set for destruction, to local and state law enforcement agencies for training purposes only.

(3) Marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products set for destruction shall not reenter the traceability system or market place.

NEW SECTION

WAC 314-55-310 Transportation license. (1) A transportation license allows the licensee to physically transport or deliver marijuana, marijuana concentrates, and marijuana-infused products between licensed marijuana businesses within Washington state. The application fee for the transportation license is two hundred fifty dollars and the annual fee is one thousand dollars.

(2) Applicants for the transportation license must submit the following information:

(a) Personal/criminal history forms for all true parties of interest (see WAC 314-55-035);

The criminal history background check will consist of completion of a personal/criminal history form provided by the WSLCB and submission of fingerprints to a vendor approved by the WSLCB. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Documents showing the right to the physical location to be licensed (purchase and sale agreement or lease in the name of the applicant);

(c) Copies of the current UTC common carrier permits. All vehicles and trailers must also be permitted by UTC as common carriers;

(d) Corporate information form or limited liability information form as applicable;

(e) Proof of insurance.

(i) Licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the licensees. Licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the WSLCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(ii) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than one million dollars.

(iii) Insurance carrier rating: The insurance required in (e)(i) of this subsection shall be issued by an insurance com-

pany authorized to do business within the state of Washington. Insurance must be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(iv) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

(3) **Transport manifest.** A complete printed transport manifest on a form provided by the WSLCB containing all information required by the WSLCB must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location and are subject to inspection if requested by an employee of the WSLCB or local law enforcement:

(a) Copies of transportation manifests for all deliveries;

(b) A transportation log documenting the chain of custody for each delivery to include driver(s) and vehicle(s) associated with each delivery;

(c) Bank statements and canceled checks for any accounts relating to the licensed business;

(d) Accounting and tax records related to the licensed business;

(e) Records of all financial transactions related to the licensed business, including invoices, contracts and/or agreements for services performed or received that relate to the licensed business;

(f) All employee records, to include training.

(5) **Transportation of product.** Marijuana or marijuana products that are being transported must meet the following requirements:

(a) Only the transportation licensee or an employee of the transportation licensee who is at least twenty-one years of age may transport product. All drivers must carry a valid Washington driver's license with the proper endorsements when operating a vehicle in the transportation of product. All passengers in the vehicle transporting marijuana or marijuana products must be employees of the transportation licensee who are at least twenty-one years of age;

(b) Marijuana or marijuana products must be in a sealed package or container approved by the WSLCB pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Marijuana or marijuana products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the marijuana or marijuana products;

(e) Any vehicle transporting marijuana or marijuana products must be delivered or returned to the shipper within twenty-four hours from the time of pickup;

(f) Live plants may be transported in a fully enclosed, windowless locked trailer, or in a secured area within the inside body/compartment of a van or box truck. A secured area is defined as an area where solid or locking metal peti-

tions, cages, or high strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed van or box truck. The secure compartment in the fully enclosed van or box truck must be free of windows. Live plants may not be transported in the bed of a pickup truck, a sports utility vehicle, or passenger car.

(6) For purposes of this chapter, any vehicle assigned for the purposes of transporting marijuana, usable marijuana, marijuana concentrates, or marijuana-infused products shall be considered an extension of the licensed premises and subject to inspection by enforcement officers of the WSLCB. Vehicles assigned for transportation may be stopped and inspected by a WSLCB enforcement officer at any licensed location, or while en route during transportation.

NEW SECTION

WAC 314-55-410 Cooperatives. (1) A cooperative may be formed by qualifying patients and/or designated providers to share responsibility for growing and processing marijuana only for the medical use of the members of the cooperative. A cooperative must meet the following criteria:

(a) All members must be at least twenty-one years of age. The designated provider of a qualifying patient under twenty-one years of age may be a member of a cooperative on the qualifying patient's behalf;

(b) All members must hold valid recognition cards;

(c) No more than four members are allowed in a cooperative;

(d) A member can only belong to one cooperative;

(e) A member may only grow plants in the cooperative and may not grow plants elsewhere;

(f) Members must participate in growing plants. A monetary contribution or donation is not considered assistance. Members must provide nonmonetary resources and assistance in order to participate;

(g) Members may grow up to the total amount of plants for which each member is authorized on their recognition cards. At the location, the qualifying patients or designated providers may possess the amount of usable marijuana that can be produced with the number of plants permitted, but no more than seventy-two ounces;

(h) Members may not sell, donate, or otherwise provide marijuana, marijuana concentrates, usable marijuana, or other marijuana-infused products to a person who is not a member of the cooperative;

(i) A cooperative may not be located within a one mile radius of a marijuana retailer;

(j) A cooperative must be located in the domicile of one of the members. Only one cooperative may be located per property tax parcel; and

(k) To obscure public view of the premises, outdoor marijuana production must be enclosed by a sight obscure wall or fence at least eight feet high.

(2) People who wish to form a cooperative must register the location with the WSLCB. The location registered is the only location where cooperative members may grow or process marijuana. To register a cooperative a registered member must:

- (a) Submit a completed Marijuana Cooperative Registration Form;
 - (b) Submit copies of each member's recognition card;
 - (c) Submit a deed, lease, rental agreement, or other document establishing ownership or control to the property where the cooperative is located. If the property is leased or rented, a sworn statement of the property owner granting permission to engage in a cooperative must also be submitted and must include a telephone number and address where the owner can be contacted for verification;
 - (d) Submit a sketch outlining where the medical marijuana is grown.
- (3) WSLCB may inspect a cooperative between the hours of 8:00 a.m. and 8:00 p.m. unless otherwise agreed upon by cooperative members.

NEW SECTION

WAC 314-55-415 What are the recordkeeping and reporting requirements for cooperatives? (1) Marijuana cooperatives must keep records that clearly reflect all activity, inventory, and conditions of the cooperative. The following records must be kept in a format prescribed by the WSLCB. All records must be maintained on the cooperative premises for a three-year period and must be made available for inspection if requested by an employee of the WSLCB, the department of health, the department of revenue, or local law enforcement.

(a) Cooperatives must maintain a plant log to track each marijuana plant from the time it enters the cooperative. At minimum, tracking must include:

- (i) Unique plant identification numbers for each plant at the cooperative;
- (ii) The date the plant was brought into the cooperative; and
- (iii) The date the plant leaves the cooperative, including the reason, (e.g., harvested, destroyed, or member left the cooperative).

(b) Cooperatives must maintain a log to track all harvested plant material from time of harvest until all harvested material has been dispersed. At minimum, tracking must include:

- (i) A unique identification number for each harvest;
- (ii) The total dry weight of harvested material;
- (iii) The date quantities are removed from the harvested material;
- (iv) The amount removed from the harvested material;
- (v) The reason quantities are removed from the harvested material (e.g., taken for use by qualifying patient, used for extraction, etc.); and
- (vi) The current weight of the harvested material.

(c) Cooperatives must maintain a log to track all extracts produced from the time they are produced until all extracted material has been dispersed. At minimum, tracking must include:

- (i) A unique identification for the extract batch;
- (ii) The date the extract batch was created;
- (iii) The total initial weight of the extract batch;
- (iv) ID number of the harvest the material used to make the extract came from;

- (v) The weight of marijuana plant material used to create the batch;
 - (vi) The date quantities are removed from the extract batch;
 - (vii) The quantity removed from the extract batch and reason; and
 - (viii) The current weight of the extract batch.
- (2) Cooperatives must submit monthly activity report(s) to the WSLCB. The required monthly reports must be:
- (a) On an electronic system designated by the WSLCB;
 - (b) Filed every month, including months with no activity;
 - (c) Submitted to the WSLCB on or before the twentieth day of each month, for the previous month. (For example, a report listing activity for the month of January is due by February 20th.);
 - (d) Filed separately for each cooperative; and
 - (e) All records must be maintained and available for review for a three-year period on licensed premises.

NEW SECTION

WAC 314-55-430 Qualifying patient or designated provider extraction requirements. (1) Qualifying patients or designated providers, including those participating in a cooperative, may extract or separate the resin from marijuana using only the following noncombustible methods:

- (a) Heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, or bubble hash;
 - (b) Dairy butter, cooking oils or fats derived from natural sources, or other home cooking substances;
 - (c) Food grade glycerin and propylene glycol solvent based extraction.
- (2) Only food grade substances may be used in any stage of processing.
- (3) Use of combustible materials including, but not limited to, butane, isobutane, propane, heptane, CO₂, and ethanol is expressly forbidden.

(4) Resins extracted or separated from marijuana are for the personal use of the qualifying patient or cooperative members only.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-505 What are the procedures for notifying a licensee of an alleged violation of a ~~(liquor control board)~~ WSLCB statute or regulation? (1) When an enforcement officer believes that a licensee has violated a ~~(board)~~ WSLCB statute or regulation, the officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent, or employee.

- (2) The AVN notice will include:
 - (a) A complete narrative description of the violation(s) the officer is charging;
 - (b) The date(s) of the violation(s);
 - (c) A copy of the law(s) and/or regulation(s) allegedly violated;

(d) An outline of the licensee's options as outlined in WAC 314-55-510; and

(e) The recommended penalty.

(i) If the recommended penalty is the standard penalty, see WAC 314-55-520 through 314-55-535 for licensees.

(ii) For cases in which there are aggravating or mitigating circumstances, the penalty may be adjusted from the standard penalty.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-506 What is the process once the ((board)) WSLCB summarily suspends a marijuana license? (1) The ((board)) WSLCB may summarily suspend any license after the ((board's)) WSLCB's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate cessation of the licensed activities is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Suspension of any license under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary suspension order unless otherwise provided in the order.

(3) When a license has been summarily suspended by the ((board)) WSLCB, an adjudicative proceeding for revocation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee or permit holder, then a hearing shall be held within ninety days of the effective date of the summary suspension ordered by the ((board)) WSLCB.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-507 How may a licensee challenge the summary suspension of his or her marijuana license? (1) Upon summary suspension of a license by the ((board)) WSLCB pursuant to WAC 314-55-506, an affected licensee may petition the ((board)) WSLCB for a stay of suspension pursuant to RCW 34.05.467 and 34.05.550(1). A petition for a stay of suspension must be received by the ((board)) WSLCB within fifteen days of service of the summary suspension order. The petition for stay shall state the basis on which the stay is sought.

(2) A hearing shall be held before an administrative law judge within fourteen days of receipt of a timely petition for stay. The hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified to allow the conduct of limited activities under current licenses or permits.

(3) Any hearing conducted pursuant to subsection (2) of this section shall be a brief adjudicative proceeding under RCW 34.05.485. The agency record for the hearing shall consist of the documentary information upon which the summary suspension was based. The licensee or permit holder shall have the burden of demonstrating by clear and convincing evidence that:

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public health, safety, or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

(4) The initial order on stay shall be effective immediately upon service unless another date is specified in the order.

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-508 Review of orders on stay. (1) The licensee, or agency, may petition the ((board)) WSLCB for review of an initial order on stay. Any petition for review must be in writing and received by the ((board)) WSLCB within ten days of service of the initial order. If neither party has requested review within ten days of service, the initial order shall be deemed the final order of the ((board)) WSLCB for purposes of RCW 34.05.467.

(2) If the ((board)) WSLCB receives a timely petition for review, the ((board)) WSLCB shall consider the petition within fifteen days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the ((board)) WSLCB on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-510 What options does a licensee have once he/she receives a notice of an administrative violation? (1) **A licensee has twenty days from receipt of the notice to:**

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) **What happens if a licensee does not respond to the administrative violation notice within twenty days?**

(a) If a licensee does not respond to the administrative violation notice within twenty days, the recommended suspension or inventory destruction penalty will go into effect.

(b) If the penalty does not include a suspension or inventory destruction, the licensee must pay a twenty-five percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within thirty days of the violation notice issue date.

(3) What are the procedures when a licensee requests a settlement conference?

(a) If the licensee requests a settlement conference, the hearing examiner or designee will contact the licensee to discuss the violation.

(b) Both the licensee and the hearing examiner or designee will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or designee will prepare a compromise settlement agreement. The hearing examiner or designee will forward the compromise settlement agreement, authorized by both parties, to the ~~((board))~~ WSLCB, or designee, for approval.

(i) If the ~~((board))~~ WSLCB, or designee, approves the compromise, a copy of the signed settlement agreement will be sent to the licensee and will become part of the licensing history.

(ii) If the ~~((board))~~ WSLCB, or designee, does not approve the compromise, the licensee will be notified of the decision. The licensee will be given the option to renegotiate with the hearing examiner or designee, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee and the hearing examiner or designee cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or designee will forward a request for an administrative hearing to the ~~((board's))~~ WSLCB's hearings coordinator.

(4) What is the process for nonpayment of monetary penalty?

(a) When a licensee fails to submit payment of monetary fine proceeding provisions to collect shall take effect immediately or other action such as revocation will be instituted as deemed appropriate by the ~~((board))~~ WSLCB.

(b) An attempt to advise the debtor of the existence of the debt, and twenty-five percent late fee per subsection (2)(b) of this section will be made notifying that the debt may be assigned to a collection agency for collection if the debt is not paid, and at least thirty days have elapsed from the time notice was attempted.

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-515 What are the penalties if a marijuana license holder violates a marijuana law or rule? (1)

The purpose of WAC 314-55-515 through 314-55-540 is to outline what penalty a marijuana licensee can expect if a licensee or employee violates a ~~((liquor control board))~~ WSLCB law or rule. (WAC rules listed in the categories provide reference areas, and may not be all inclusive. Any violation not listed in WAC 314-55-515 through 314-55-540 will be assessed following penalty progression of the license type group associated with the class of license.)

(2) Penalties for violations by marijuana licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-55-520.

(b) Group Two—Regulatory violations, WAC 314-55-525.

(c) Group Three—License violations, WAC 314-55-530.

(d) Group Four—~~((Producer))~~ Nonretail violations involving the manufacture, supply, processing, and/or distribution of marijuana by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-55-535.

(e) Group Five—Violations involving the transportation freight of marijuana, WAC 314-55-537.

(3) For the purposes of chapter 314-55 WAC, a three-year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) For the purposes of applying penalties outlined in WAC 314-55-520 through 314-55-535, "inventory" means all marijuana plants, clones, usable marijuana, marijuana-infused products, intermediate products, and marijuana concentrates located on the licensed premises at the time of a violation. The most mature plant on the licensed premises will be selected for destruction. The destruction of other types of inventory will consist of an equitable cross section of those products.

(5) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the ~~((liquor control board))~~ WSLCB may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the ~~((board))~~ WSLCB may offer a monetary option in lieu of suspension, or alternate penalty, during a settlement conference as outlined in WAC 314-55-510(3).

(a) Mitigating circumstances	(b) Aggravating circumstances
Mitigating circumstances that may result in fewer days of suspension and/or a lower monetary option may include demonstrated business policies and/or practices that reduce the risk of future violations.	Aggravating circumstances that may result in increased days of suspension, and/or increased monetary option, and/or cancellation of marijuana license may include business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation.
Examples include:	Examples include:
<ul style="list-style-type: none"> • Having a signed acknowledgment of the business' responsible handling and sales policies on file for each employee; 	<ul style="list-style-type: none"> • Failing to call 911 for local law enforcement or medical assistance when requested by a customer, ((a liquor control board)) <u>WSLCB</u> officer, or when people have sustained injuries.

(a) Mitigating circumstances	(b) Aggravating circumstances
<ul style="list-style-type: none"> Having an employee training plan that includes annual training on marijuana laws. 	<u>Engaging in criminal activities, including money laundering, organized crime, fraud, firearms, and diversion of marijuana.</u>

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-520 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety. Based on chapter 69.50 RCW, some violations have only a monetary option. Some violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The ~~((liquor control board))~~ WSLCB may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-55-515(4). Group 1 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
((Sale or service to minor: Sale of marijuana and/or paraphernalia to a person under twenty-one years of age. WAC 314-55-079 RCW 69.50.4015 RCW 69.50.401 RCW 69.50.406 RCW 69.50.412	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Allowing a minor to frequent a restricted area. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Employee under legal age. RCW 69.50.357 RCW 69.50.331(6)	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Licensee and/or employee open and/or consuming marijuana on a retail licensed premises. RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Conduct violations: Criminal conduct: Permitting or engaging in criminal conduct.	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Using unauthorized pesticides, soil amendments, fertilizers, other crop production aids. WAC 314-55-084 WAC 314-55-087 (1)(f)	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Adulterate usable marijuana with organic or nonorganic chemical or other compound. WAC 314-55-105	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Using unauthorized solvents or gases in processing. WAC 314-55-104	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. WAC 314-55-050 WAC 314-55-077	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Marijuana purchased from an unauthorized source. RCW 69.50.360 RCW 69.50.363	Cancellation of license			
Marijuana sold to an unauthorized source. RCW 69.50.363 RCW 69.50.366 RCW 69.50.401	Cancellation of license			
Sales in excess of transaction limitations. WAC 314-55-095(3) RCW 69.50.360	Cancellation of license))			
Furnishing to minor: Sale or otherwise provide marijuana and/or paraphernalia to a person under twenty-one years of age. Chapter 314-55 WAC Chapter 69.50 RCW	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option	Retailer/transporter: 30-day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license	
Allowing a minor to frequent retail store. Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<p><u>Allowing a minor to frequent a nonretail licensed premises or occupy a transport vehicle.</u> Chapter 314-55 WAC</p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>
<p><u>Employee under legal age.</u> Chapter 69.50 RCW</p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>
<p><u>Opening and/or consuming marijuana on a retail licensed premises.</u> Chapter 69.50 RCW</p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>	<p><u>\$1,000 monetary fine</u></p>
<p><u>Conduct violations:</u> <u>Criminal conduct:</u> Permitting or engaging in criminal conduct. <u>Disorderly conduct</u> by licensee or employee, or permitting on premises. Chapter 314-55 WAC <u>Licensee and/or employee</u> intoxicated on the licensed premises. Chapter 314-55 WAC</p>	<p><u>Retailer/transporter: 10-day suspension or \$2,500 monetary option</u> <u>Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option</u></p>	<p><u>Retailer/transporter: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u></p>	<p><u>Cancellation of license</u></p>	
<p><u>Refusal</u> to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. Chapter 314-55 WAC</p>	<p><u>Retailer/transporter: 10-day suspension or \$2,500 monetary option</u> <u>Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option</u></p>	<p><u>Retailer/transporter: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u></p>	<p><u>Cancellation of license</u></p>	
<p><u>Marijuana purchased from an unauthorized source.</u> Chapter 69.50 RCW</p>	<p><u>Cancellation of license</u></p>			
<p><u>Marijuana sold to an unauthorized source.</u> Chapter 69.50 RCW</p>	<p><u>Cancellation of license</u></p>			
<p><u>Operating an unapproved CO₂ or hydrocarbon extraction system.</u> Chapter 314-55 WAC</p>	<p><u>Cancellation of license</u></p>			

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<u>Condition of suspension violation: Failure to follow any suspension restriction while marijuana license is suspended (retailer).</u> Chapter 314-55 WAC	<u>Original penalty plus 10-day suspension with no monetary option</u>	<u>Cancellation of license</u>		
<u>Sales in excess of transaction limitations.</u> Chapter 69.50 RCW Chapter 314-55 WAC	<u>10-day suspension or \$2,500 monetary option</u>	<u>30-day suspension</u>	<u>Cancellation of license</u>	

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-525 Group 2 regulatory violations. Group 2 violations are violations involving general regulation and administration of retail or nonretail licenses. Group 2 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
((Hours of service- Sales of marijuana between 12:00 a.m. and 8:00 a.m. WAC 314-55-147	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Advertising: Violations (statements/illustrations): WAC 314-55-155(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Advertising violations -Sign exceeding 1600-square inches; within 1000 feet of prohibited areas; on or in public-transit vehicles, shelters, or publicly owned or operated property: RCW 69.50.357 RCW 69.50.369 WAC 314-55-155(1)	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Packaging and/or labeling violations (processor/retailer): WAC 314-55-105	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Licensee/employee failing to display required security badge: WAC 314-55-083(1)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to submit monthly tax reports and/or payments. WAC 314-55-089 WAC 314-55-092 RCW 69.50.535	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Signs: Failure to post required signs. WAC 314-55-086 RCW 69.50.331(5)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to utilize and/or maintain traceability (processor or retail licensee): WAC 314-55-083(4)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Exceeding maximum serving requirements for marijuana-infused products. WAC 314-55-095(2)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure for a processor to meet marijuana waste disposal requirements. WAC 314-55-097	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to maintain standardized scale requirements (processor): WAC 314-55-099	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Failure to follow and maintain food processing facility requirements. WAC 314-55-077	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Marijuana processor-extraction requirements: WAC 314.55.104	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Retail outlet selling unauthorized products: RCW 69.50.357 RCW 69.50.4121	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Retailer displaying products in a manner visible to the general public from a public right of way: RCW 69.50.357	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Sale of Marijuana- Violations by retailer involving sales, delivery, inventory, and returns: WAC 314.55.079 WAC 314.55.070 (6)	5-day suspension or \$500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license))
Hours of service: Sales of marijuana between 12:00 a.m. and 8:00 a.m. Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
General advertising: Violations Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option	Retailer/transporter: 30-day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license
Advertising violations - Sign exceeding 1,600 square inches; within 1,000 feet of prohibited areas; on or in public transit vehicles, shelters, or publicly owned or operated property. Chapter 69.50 RCW Chapter 314-55 WAC	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
Engaging in conditional retail sales: Chapter 314-55 WAC Chapter 69.50 RCW	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<p><u>Licensee/employee failing to display required security badge.</u> Chapter 314-55 WAC</p>	<p><u>5-day suspension or \$1,000 monetary option</u></p>	<p><u>Retailer/transporter: 10-day suspension or \$2,500 monetary option</u> <u>Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option</u></p>	<p><u>Retailer/transporter: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u></p>	<p><u>Cancellation of license</u></p>
<p><u>Failure to maintain required security alarm and surveillance systems.</u> Chapter 314-55 WAC</p>	<p><u>5-day suspension or \$2,500 monetary option</u></p>	<p><u>Retailer/transporter: 10-day suspension and \$5,000 monetary fine</u> <u>Producer/processor: \$5,000 monetary fine and 25% destruction of inventory</u></p>	<p><u>Retailer/transporter: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u></p>	<p><u>Cancellation of license</u></p>
<p><u>Records: Improper recordkeeping.</u> Chapter 314-55 WAC</p>	<p><u>5-day suspension or \$1,000 monetary option</u></p>	<p><u>Retailer/transporter: 10-day suspension or \$2,500 monetary option</u> <u>Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option</u></p>	<p><u>Retailer/transporter: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u></p>	<p><u>Cancellation of license</u></p>
<p><u>Failure to submit monthly tax reports and/or payments.</u> Chapter 69.50 RCW Chapter 314-55 WAC</p>	<p><u>5-day suspension or \$1,000 monetary option</u></p>	<p><u>Retailer: 10-day suspension or \$2,500 monetary option</u> <u>Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option</u></p>	<p><u>Retailer: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u></p>	<p><u>Cancellation of license</u></p>
<p><u>Signs: Failure to post required signs.</u> Chapter 69.50 RCW Chapter 314-55 WAC</p>	<p><u>5-day suspension or \$1,000 monetary option</u></p>	<p><u>Retailer/transporter: 10-day suspension or \$2,500 monetary option</u> <u>Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option</u></p>	<p><u>Retailer/transporter: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u></p>	<p><u>Cancellation of license</u></p>
<p><u>Failure to utilize and/or maintain traceability (retail licensee).</u> Chapter 314-55 WAC</p>	<p><u>5-day suspension or \$2,500 monetary option</u></p>	<p><u>Retailer: 10-day suspension and \$5,000 monetary fine</u> <u>Producer/processor: \$5,000 monetary fine and 25% destruction of inventory</u></p>	<p><u>Retailer: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u></p>	<p><u>Cancellation of license</u></p>

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<u>Violation of transportation requirements (retailer).</u> Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option	Retailer: 10-day suspension and \$5,000 monetary fine Producer/processor: \$5,000 monetary fine and 25% destruction of inventory	Retailer: 30-day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license
<u>Marijuana sold below cost of acquisition, true value, or illegally given away.</u>	5-day suspension or \$1,000 monetary option	Retailer: 10-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option	Retailer: 30 day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license
<u>Retail outlet selling unauthorized products.</u> Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
<u>Retailer displaying products in a manner visible to the general public from a public right of way.</u> Chapter 69.50 RCW	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine	\$1,000 monetary fine
<u>Retail sales: Unauthorized marijuana-infused products, internet sales, and accepting returns.</u> Chapter 314-55 WAC	5-day suspension or \$1,000 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-530 Group 3 license violations. Group 3 violations are violations involving licensing requirements, license classification, and special restrictions. Group 3 penalties imposed on a producer and/or processor license will not include license suspension. Penalties for a producer and/or processor license will be restricted to monetary fines, destruction of inventory, and/or license cancellation only.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
(((True party of interest violation. WAC 314-55-035	Cancellation of license			
Failure to furnish required documents. WAC 314-55-050	Cancellation of license			
Misrepresentation of fact. WAC 314-55-050	Cancellation of license			

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Operating plan: Violations of a board-approved operating plan. WAC 314-55-020	5-day suspension or \$500 monetary option	10-day suspension or \$1,500 monetary option	30-day suspension	Cancellation of license
Failing to gain board approval for changes in existing ownership. WAC 314-55-120 RCW 69.50.339	30-day suspension	Cancellation of license		
Failure to maintain required insurance. WAC 314-55-082	30-day suspension	Cancellation of license))		
True party of interest/ financier violation. Chapter 314-55 WAC	Cancellation of license			
Failure to furnish required documents. Chapter 314-55 WAC	Cancellation of license			
Misuse or unauthorized use of marijuana license (operating outside of license class). Chapter 69.50 RCW Chapter 314-55 WAC	Retailer/transporter: 10-day suspension or \$5,000 monetary fine Producer/processor: \$5,000 monetary fine or 25% destruction of inventory option	Cancellation of license		
Misrepresentation of fact. Chapter 314-55 WAC	Cancellation of license			
Unauthorized change of business name. Chapter 314-55 WAC	5-day suspension or \$500 monetary option	10-day suspension or \$1,500 monetary option	30-day suspension or \$5,000 monetary option	Cancellation of license
Operating/floor plan: Violations of a WSLCB approved operating plan. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$1,000 monetary option	Retailer/transporter: 10-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option	Retailer/transporter: 30-day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license
Failing to gain WSLCB approval for changes in existing ownership. Chapter 69.50 RCW Chapter 314-55 WAC	30-day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license		

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Failure to maintain required insurance. Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$2,500 monetary fine Producer/processor: \$2,500 monetary fine or 25% destruction of inventory option	Retailer/transporter: 30-day suspension or \$15,000 monetary option Producer/processor: \$15,000 monetary fine or 50% destruction of inventory option	Cancellation of license	

AMENDATORY SECTION (Amending WSR 15-11-107, filed 5/20/15, effective 6/20/15)

WAC 314-55-535 Group 4 marijuana producer and/or processor violations. Group 4 violations are violations involving the manufacture, supply, processing, and/or distribution of marijuana by marijuana producer and/or processor licensees and prohibited practices between a marijuana producer, processor, and transportation licensees and a marijuana retailer licensee.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
((Unauthorized sale to a retail licensee. WAC 314-55-075 RCW 69.50.366 RCW 69.50.401	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to utilize and/or maintain traceability. WAC 314-55-083(4)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Packaging and/or labeling violations (producer). WAC 314-55-105	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Unauthorized product/unapproved storage or delivery. RCW 69.50.366 RCW 69.50.401	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure for a producer to meet marijuana waste disposal requirements. WAC 314-55-097	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Violation of transportation requirements. WAC 314-55-085	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain standardized scale requirements (producer). WAC 314-55-099	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to submit monthly tax reports and/or payments. WAC 314-55-089 WAC 314-55-092	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Sale or service to minor: Sale of marijuana and/or paraphernalia to a person under twenty-one years of age. WAC 314-55-079 RCW 69.50.4015 RCW 69.50.401 RCW 69.50.406 RCW 69.50.412	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Conduct violations:- Criminal conduct:- Permitting or engaging in criminal conduct.	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Using unauthorized pesticides, soil amendments, fertilizers, other crop production aids. WAC 314-55-084 WAC 314-55-087 (1)(f)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Adulterate usable marijuana with organic or nonorganic chemical or other compound. WAC 314-55-105	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Using unauthorized solvents or gases in processing. WAC 314-55-104	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<p>Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. WAC 314-55-050 WAC 314-55-077</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Marijuana purchased from an unauthorized source. RCW 69.50.360 RCW 69.50.363</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Marijuana sold to an unauthorized source. RCW 69.50.363 RCW 69.50.366 RCW 69.50.401</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Sales in excess of transaction limitations. WAC 314-55-095(3) RCW 69.50.360</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Advertising: Violations (statements/illustrations): WAC 314-55-155(2)</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Packaging and/or labeling violations (producer/processor). WAC 314-55-105</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Licensee/employee failing to display required security badge. WAC 314-55-083(1)</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Failure to maintain required security alarm and surveillance systems. WAC 314-55-083 (2) and (3)</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Records: Improper recordkeeping. WAC 314-55-087 WAC 314-55-089</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
<p>Signs: Failure to post required signs. WAC 314-55-086 RCW 69.50.331(5)</p>	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Violation of transportation requirements. WAC 314-55-085	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Exceeding maximum serving requirements for marijuana-infused products. WAC 314-55-095(2)	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain standardized scale requirements (producer/processor). WAC 314-55-099	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Marijuana processor extraction requirements. WAC 314-55-104	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Operating plan: Violations of a board-approved operating plan. WAC 314-55-020	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failing to gain board approval for changes in existing ownership. WAC 314-55-120 RCW 69.50.339	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license
Failure to maintain required insurance. WAC 314-55-082	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of harvestable plants	\$15,000 monetary fine and destruction of 50% of harvestable plants	Cancellation of license))
Unauthorized sale to a retail licensee. Chapter 69.50 RCW Chapter 314-55 WAC	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of inventory	\$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license
Packaging and/or labeling violations. Chapter 314-55 WAC	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of inventory	\$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license
Unauthorized product/unapproved storage or delivery. Chapter 69.50 RCW	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of inventory	\$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license
Failure to meet marijuana waste disposal requirements. Chapter 314-55 WAC	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of inventory	\$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license
Sampling violations. Chapter 314-55 WAC	\$2,500 monetary fine	\$5,000 monetary fine and destruction of 25% of inventory	\$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<u>Failure to follow and maintain food processing facility requirements.</u> Chapter 314-55 WAC	<u>\$2,500 monetary fine</u>	<u>\$5,000 monetary fine and destruction of 25% of inventory</u>	<u>\$15,000 monetary fine and destruction of 50% of inventory</u>	<u>Cancellation of license</u>
<u>Unauthorized pesticides, soil amendments, fertilizers, other crop production aids.</u> Chapter 314-55 WAC	<u>\$2,500 monetary fine</u>	<u>\$5,000 monetary fine and destruction of 25% of inventory</u>	<u>\$15,000 monetary fine and destruction of 50% of inventory</u>	<u>Cancellation of license</u>
<u>Adulterate usable marijuana with organic or nonorganic chemical or other compound.</u> Chapter 314-55 WAC	<u>\$2,500 monetary fine</u>	<u>\$5,000 monetary fine and destruction of 25% of inventory</u>	<u>\$15,000 monetary fine and destruction of 50% of inventory</u>	<u>Cancellation of license</u>
<u>Packaging and/or labeling violations.</u> Chapter 314-55 WAC	<u>\$2,500 monetary fine</u>	<u>\$5,000 monetary fine and destruction of 25% of inventory</u>	<u>\$15,000 monetary fine and destruction of 50% of inventory</u>	<u>Cancellation of license</u>
<u>Exceeding maximum serving requirements for marijuana-infused products.</u> Chapter 314-55 WAC	<u>\$2,500 monetary fine</u>	<u>\$5,000 monetary fine and destruction of 25% of inventory</u>	<u>\$15,000 monetary fine and destruction of 50% of inventory</u>	<u>Cancellation of license</u>
<u>Failure to maintain standardized scale requirements.</u> Chapter 314-55 WAC	<u>\$2,500 monetary fine</u>	<u>\$5,000 monetary fine and destruction of 25% of inventory</u>	<u>\$15,000 monetary fine and destruction of 50% of inventory</u>	<u>Cancellation of license</u>
<u>Marijuana processor extraction requirements.</u> Chapter 314-55 WAC	<u>\$2,500 monetary fine</u>	<u>\$5,000 monetary fine and destruction of 25% of inventory</u>	<u>\$15,000 monetary fine and destruction of 50% of inventory</u>	<u>Cancellation of license</u>
<u>Selling or purchasing marijuana on credit.</u> Chapter 314-55 WAC	<u>Retailer: 5-day suspension or \$2,500 monetary option</u> <u>Producer/processor: \$2,500 monetary fine</u>	<u>Retailer: 10-day suspension or \$5,000 monetary option</u> <u>Producer/processor: \$5,000 monetary fine or destruction of 25% of inventory</u>	<u>Retailer: 30-day suspension</u> <u>Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory</u>	<u>Cancellation of license</u>
<u>Payment with NSF check.</u> Chapter 314-55 WAC	<u>Retailer: 5-day suspension or \$500 monetary option</u> <u>Producer/processor: \$500 monetary fine</u>	<u>Retailer: 5-day suspension or \$1,500 monetary option</u> <u>Producer/processor: \$1,500 monetary fine or destruction of 25% of inventory</u>	<u>Retailer: 10-day suspension or \$3,000 monetary option</u> <u>Producer/processor: \$3,000 monetary fine or destruction of 50% of inventory</u>	<u>Cancellation of license</u>

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
<u>Engaging in nonretail conditional sales or prohibited practices.</u> Chapter 314-55 WAC	Retailer/transporter: 5-day suspension or \$2,500 monetary option Producer/processor: \$2,500 monetary fine	Retailer/transporter: 10-day suspension and \$5,000 monetary option Producer/processor: \$5,000 monetary fine and destruction of 25% of inventory	Retailer/transporter: 30-day suspension Producer/processor: \$15,000 monetary fine and destruction of 50% of inventory	Cancellation of license

NEW SECTION

WAC 314-55-537 Group 5 license violations. Group 5 violations are violations involving marijuana transportation licensees.

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Transportation of marijuana in an unauthorized vehicle. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Exceeding maximum delivery time frame. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Transportation or storage of marijuana from an unlicensed source and/or diversion of product. Chapter 69.50 RCW	Cancellation of license			
Pickup, unload, or delivery at an unauthorized location. Chapter 314-55 WAC	30-day suspension	Cancellation of license		
Transportation of marijuana outside of Washington state boundaries. Chapter 314-55 WAC	Cancellation of license			
Load exceeding maximum delivery amount. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Transportation of marijuana without a valid manifest. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	
Driver transporting without a valid driver's license. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	

Violation Type	1st Violation	2nd Violation in a three-year window	3rd Violation in a three-year window	4th Violation in a three-year window
Unauthorized driver or passenger. Chapter 314-55 WAC	5-day suspension or \$2,500 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license
Criminal violation of motor vehicle laws. Title 46 RCW Chapter 314-55 WAC	10-day suspension or \$2,500 monetary option	30-day suspension	Cancellation of license	

AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

WAC 314-55-540 Information about marijuana license suspensions. (1) On the date a marijuana license suspension goes into effect, a ~~((liquor control))~~ WSLCB enforcement officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the ~~((liquor control board))~~ WSLCB due to a violation of a ~~((board))~~ WSLCB law or rule.

(2) During the period of marijuana license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable marijuana laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the ~~((liquor control board's))~~ WSLCB's suspension notice.

(3) During the period of marijuana license suspension:

(a) A marijuana ~~((retailer or marijuana processor))~~ licensee may not operate his/her business ~~((during the dates and times of suspension))~~.

(b) There is no sale, delivery, service, destruction, removal, or receipt of marijuana ~~((during a license suspension))~~.

~~((c) A producer of marijuana may do whatever is necessary as a part of the producing process to keep current stock that is on hand at the time of the suspension from spoiling or becoming unsalable during a suspension, provided it does not include processing the product. The producer may not receive any agricultural products used in the production of marijuana during the period of suspension)).~~

**WSR 15-19-168
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING**

[Filed September 23, 2015, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-12-120.

Title of Rule and Other Identifying Information: WAC 170-290-0130 In-home/relative providers—Eligibility, 170-290-0135 In-home/relative providers—Information provided to DSHS, and 170-290-0138 In-home/relative providers—Responsibilities.

Hearing Location(s): Tacoma DSHS/DEL Office, Conference Room #390, 1949 South State Street, Tacoma, WA 98405, on Tuesday, October 27, 2015, at 10:00 a.m.; at NEW ESD 101, Conference Center, Classroom 2, 4202 South Regal Street, Spokane, WA 99223, on Wednesday, October 28, 2015, at 10:00 a.m.; and at the Educational Service District 123, Grand Ronde Room, 3918 West Court Street, Pasco, WA 99301, on Thursday, October 29, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 29, 2015.

Submit Written Comments to: Rules Coordinator, Department of Early Learning (DEL), P.O. Box 40970, Olympia, WA 98504-0970, e-mail rules@del.wa.gov, fax (360) 725-4925, by October 29, 2015.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by October 22, 2015, (360) 725-4670.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule making is to update eligibility standards for license exempt, in-home/relative providers. DEL proposes to add language to the existing provider eligibility rules that will prohibit license exempt, in-home/relative child care providers from receiving child care subsidy payments if the provider has had a child care license revoked.

Reasons Supporting Proposal: Current rules state that DSHS will not pay for the cost of child care provided by an in-home/relative provider if the provider does not meet certain requirements. Examples include being charged with or convicted of certain crimes, not completing background checks, or DSHS determining that a provider is not of suitable character and competence to meet the needs of children in care. The proposed rules are needed to enhance and promote the health and safety of children in care.

Statutory Authority for Adoption: RCW 43.215.070, chapter 43.215 RCW.

Statute Being Implemented: Chapter 43.215 RCW.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Matt Judge, Subsidy Policy Supervisor, DEL State Office, P.O. Box 40970, Olympia, WA 98504, (360) 725-4523; Implementation and Enforcement: DEL licensing offices, statewide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are not expected to impose new costs on businesses that are required to comply. If the rules result in costs, those costs are not expected to be "more than minor" as defined in chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not among the agencies listed as required to comply with RCW 34.05.328.

September 23, 2015
Ross Hunter
Director

AMENDATORY SECTION (Amending WSR 11-18-001, filed 8/24/11, effective 9/24/11)

WAC 170-290-0130 In-home/relative providers—Eligibility. (1) To be eligible as an in-home/relative provider to care for children under WCCC, the applicant must be:

- (a) Eighteen years of age or older;
- (b) A citizen or legal resident of the U.S.; and
- (c) Meet all of the requirements listed in WAC 170-290-0135.

(2) Additionally, eligible in-home/relative providers must:

(a) Meet all applicable background check requirements in part II of this chapter;

(b) Agree to provide care, supervision, and daily activities based on the child's developmental needs, including environmental, physical, nutritional, emotional, cognitive, safety, and social needs; and

(c) Bill only for actual hours of care provided. Those hours must be authorized by DSHS, and used by the parent for his or her DSHS approved activities or work hours.

(3) The following eligible in-home/relative providers, except those providers residing with a disqualified person, may provide care in either their home or the child's home:

- (a) Adult siblings that live outside the child's home;
 - (b) Extended tribal family members;
 - (c) Grandparent or great-grandparent; or
 - (d) Aunt or uncle, or great-aunt or great-uncle.
- (4) All other eligible providers, including other family members, friends, neighbors, or nannies must provide care in the child's home only.

(5) The following persons are not eligible to provide in-home/relative care under part II of this chapter:

- (a) The child's biological, adoptive, or step-parent;
- (b) The child's legal guardian or the guardian's spouse or live-in partner; ~~((c))~~

(c) Another adult acting in loco parentis or that adult's spouse or live-in partner; or

(d) An individual who has a revoked child care license.

(6) WCCC consumers may have up to two in-home/relative providers authorized for payment during the consumer's eligibility period, plus one back-up provider, either licensed

or in-home/relative also authorized to care for the consumer's children.

(7) WCCC consumers who choose in-home/relative care are responsible to monitor the environment and child care services they receive from their provider. WCCC consumers must ensure that their children who receive subsidized child care outside of their own home are current on all Washington state immunizations, except in cases based on religious preference or medical conditions.

(8) In-home/relative providers who are paid child care subsidies to care for children receiving WCCC benefits may not receive those benefits for their own children during the hours in which they provide subsidized child care.

AMENDATORY SECTION (Amending WSR 12-11-025, filed 5/8/12, effective 6/8/12)

WAC 170-290-0135 In-home/relative providers—Information provided to DSHS. (1) When a consumer chooses in-home/relative child care, the consumer and the provider must give DSHS the following information:

- (a) The in-home/relative provider's legal name, address, and telephone number;
- (b) A copy of the provider's valid Social Security card;
- (c) A copy of the provider's photo identification;
- (d) A completed, signed and dated background check form; and

(e) A completed WCCC application form, signed and dated by the consumer and the provider, in which they both attest that the provider is:

- (i) Of suitable character and competence;
- (ii) Of sufficient physical and mental health to be a safe child care provider and meet the needs of the children in care;
- (iii) Able to work with the children without using corporal punishment or psychological abuse;
- (iv) Able to accept and follow instructions;
- (v) Able to maintain personal cleanliness;
- (vi) Prompt and regular in job attendance; ~~((and))~~
- (vii) Informed about basic health practices, prevention and control of infectious disease, and immunizations; and
- (viii) Not an individual whose child care license has been revoked.

(2) If DSHS requests it, the consumer and/or the provider must provide written medical or legal evidence that the in-home/relative provider is of sufficient physical and mental health to provide safe, reliable and developmentally appropriate child care services.

(3) When a consumer chooses in-home/relative child care, the provider must give DSHS information as to whether an individual sixteen years of age or older living with the provider is a registered sex offender.

AMENDATORY SECTION (Amending WSR 12-11-025, filed 5/8/12, effective 6/8/12)

WAC 170-290-0138 In-home/relative providers—Responsibilities. An in-home/relative provider must:

(1) Provide care, supervision, and daily activities based on the child's developmental needs;

(2) Report to DSHS within ten days any changes to their legal name, address or telephone number;

(3) Report to DSHS within twenty-four hours any pending charges or convictions they have;

(4) Report to DSHS within twenty-four hours any pending charges or convictions for anyone sixteen years of age and older who lives with the provider, including any person sixteen years of age or older who newly resides with the provider, when the provider cares for the child in the provider's home. Background checks must be completed for these persons as provided in WAC 170-290-0143;

(5) Report a revoked child care license;

(6) Bill only for actual hours of care provided. Those hours must be authorized by DSHS, and used by the consumer for his or her DSHS approved activities;

~~((6))~~ (7) Bill for no more than six children at one time during the same hours of care;

~~((7))~~ (8)(a) If paper attendance records are used, have the consumer sign and date the attendance records at least weekly, verifying the accuracy of the dates and times.

(b) Providers may use an electronic attendance system as provided in WAC 170-290-0139 to record attendance in lieu of a paper sign-in record.

(c) Providers must keep attendance records for five years documenting the days and hours of care provided;

~~((8))~~ (9) Repay any overpayments under WAC 170-290-0268; and

~~((9))~~ (10) Have at least one working telephone accessible in the home for incoming and outgoing calls during all times that subsidized child care is provided. The telephone must have 911 emergency services calling access.

WSR 15-19-169
PROPOSED RULES
DEPARTMENT OF
EARLY LEARNING

[Filed September 23, 2015, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-16-046.

Title of Rule and Other Identifying Information: WAC 170-06-0010 Purpose and scope, 170-06-0020 Definitions, 170-06-0040 Background clearance requirements, 170-06-0041 Licensee requirements, 170-06-0042 Departmental investigation and redetermination, 170-06-0043 Failure to report nonconviction and conviction information, 170-06-0050 Department action following completion of background inquiry, 170-06-0060 Additional information the department may consider, 170-06-0070 Disqualification, 170-06-0080 Notification of disqualification, 170-06-0115 Reconsideration of disqualification, 170-06-0120 Director's list, and 170-100-090 Staff qualifications.

Hearing Location(s): Tacoma DSHS/DEL Office, Conference Room #390, 1949 South State Street, Tacoma, WA 98405, on Tuesday, October 27, 2015, at 10:00 a.m.; at NEW ESD 101, Conference Center, Classroom 2, 4202 South Regal Street, Spokane, WA 99223, on Wednesday, October 28, 2015, at 10:00 a.m.; and at the Educational Service District 123, Grand Ronde Room, 3918 West Court Street,

Pasco, WA 99301, on Thursday, October 29, 2015, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 29, 2015.

Submit Written Comments to: Rules Coordinator, Department of Early Learning (DEL), P.O. Box 40970, Olympia, WA 98504-0970, e-mail rules@del.wa.gov, fax (360) 725-4925, by October 29, 2015.

Assistance for Persons with Disabilities: Contact DEL rules coordinator by October 22, 2015, (360) 725-4670.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule making is to ensure that the department's background check rules are applicable to and include the early childhood education and assistance program (ECEAP).

Reasons Supporting Proposal: The Washington state legislature passed the Early Start Act during the 2015 legislative session. The act directs the department to adopt fingerprint background check rules for ECEAP employees who have access to children. Those employees must submit to a fingerprint background check, and the procedures to do so must be the same as the department already has established. The Early Start Act requires that these rules be in place by January 1, 2016, and are needed to enhance and promote the health and safety of children participating in these programs.

Statutory Authority for Adoption: RCW 43.215.070, chapter 43.215 RCW.

Statute Being Implemented: Chapter 43.215 RCW.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Mary Kay Quinlan, Statewide Licensing Administrator and Nicole Rose, Assistant Director for QPPG, DEL State Office, P.O. Box 40970, Olympia, WA 98504, (360) 725-4665; Implementation and Enforcement: DEL licensing offices, statewide.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules are not expected to impose new costs on businesses that are required to comply. If the rules result in costs, those costs are not expected to be "more than minor" as defined in chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328. DEL is not among the agencies listed as required to comply with RCW 34.05.328.

September 23, 2015

Ross Hunter
Director

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0010 Purpose and scope. (1) The purpose of this chapter is to establish rules for background checks conducted by the department of early learning (DEL or department).

(2) The department conducts background checks on subject individuals who are authorized to care for or have unsupervised access to children in (~~child care agencies or in facil-~~

ities that are licensed or certified by the department)) early learning services.

(3) The department conducts background checks to reduce the risk of harm to children from subject individuals who have been convicted of certain crimes or who pose a risk to children.

(4) The department's rules and state law require the evaluation of background information to determine the character, suitability, or competence of persons who will care for or have unsupervised access to children in ((~~child care~~)) early learning services.

(5) If any provision of this chapter conflicts with any provision in any chapter containing a substantive rule relating to background checks and qualifications of persons who are authorized to care for or have unsupervised access to children in ((~~child care~~)) early learning services, the provisions in this chapter shall govern.

(6) These rules implement chapters 43.215 and 43.43 RCW, including DEL responsibilities in RCW 43.215.200, 43.215.205, 43.215.215 through 43.215.218, 43.43.830, and 43.43.832.

(7) Effective date: These rules are initially effective July 3, 2006, and apply prospectively. Effective July 1, 2012, these rules are amended to allow for increased and continued portability of background check clearances for subject individuals who are authorized to care for or have unsupervised access to children in ((~~child care agencies or in facilities that are licensed or certified by the department~~)) early learning services.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0020 Definitions. The following definitions apply to this chapter:

"**Agency**" has the same meaning as "agency" in RCW 43.215.010(2).

"**Appellant**" means only those with the right of appeal under this chapter.

"**Authorized**" or "**authorization**" means approval by DEL to care for or have unsupervised access to children in ((~~child care~~)) early learning services or to work in or reside on the premises of a child care agency or certified facility.

"**Certification**" or "**certified by DEL**" means an agency that is legally exempt from licensing that has been certified by DEL as meeting minimum licensing requirements.

"**Conviction information**" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject individual.

"**DEL**" or "**department**" means the department of early learning.

"**Director's list**" means a list of crimes, the commission of which disqualifies a subject individual from being authorized by DEL to care for or have unsupervised access to children in ((~~child care~~)) early learning services, WAC 170-06-0120.

"**Disqualified**" means DEL has determined that a person's background information prevents that person from

being licensed or certified by DEL or from being authorized by DEL to care for or have unsupervised access to children in ((~~child care~~)) early learning services.

"**Early learning service(s)**" is defined as the DEL programs including child care that are required to have the department conduct their fingerprint and background checks. Examples of early learning services, as it applies to this chapter include, but are not limited to, licensed child care providers and the early childhood education and assistance program.

"**Negative action**" means a court order, court judgment or an adverse action taken by an agency, in any state, federal, tribal or foreign jurisdiction, which results in a finding against the subject individual reasonably related to the subject individual's character, suitability and competence to care for or have unsupervised access to children in ((~~child care~~)) early learning services. This may include, but is not limited to:

- (a) A decision issued by an administrative law judge.
- (b) A final determination, decision or finding made by an agency following an investigation.
- (c) An adverse agency action, including termination, revocation or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification or contract in lieu of the adverse action.
- (d) A revocation, denial or restriction placed on any professional license.
- (e) A final decision of a disciplinary board.

"**Nonconviction information**" means arrest, pending charges, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the subject individual.

"**Nonexpiring license**" or "**nonexpiring full license**" means a full license that is issued to a licensee following the initial licensing period, as provided in WAC 170-151-087, 170-295-0095, or 170-296A-1450, as appropriate.

"**Subject individual**":

- (1) Means an individual who:
 - (a) Is seeking a background check authorization or upon whom the department may conduct a background check authorization;
 - (b) Is sixteen years of age or older;
 - (c) Is employed by, contracted with, or volunteering for ((~~a licensed child care agency or certified facility~~)) early learning services; and
 - (d) Will care for or have unsupervised access to children in ((~~child care~~)) early learning services; and
- (2) Includes, but is not limited to, the following:
 - (a) Personnel, including employees and staff;
 - (b) Contractors, including contracted providers;
 - (c) Temporary workers;
 - (d) Assistants;
 - (e) Volunteers;
 - (f) Interns;
 - (g) Each person ((~~residing on, or moving into, the premises of a licensed family home child care who is sixteen years of age or older~~)) who is sixteen years of age or older residing on, or moving into, the premises where early learning services are provided;

(h) All other individuals who are sixteen years of age or older who will care for or have unsupervised access to children in ~~((child care))~~ early learning services;

(i) All owners, operators, lessees, or directors of the agency or facility, or their designees;

(j) Applicants. As used in this definition, "applicant" means an individual who is seeking a DEL background check authorization as part of:

(i) An application for a child care agency license or DEL certification or who seeks DEL authorization to care for or have unsupervised access to children in ~~((child care))~~ early learning services; or

(ii) A continuation of a nonexpiring license or renewal of a certificate, or renewal of DEL's authorization to care for or have unsupervised access to children in ~~((child care))~~ early learning services, with respect to an individual who is a currently licensed or certified child care provider; and

(k) Licensees. As used in this definition, "licensee" means the individual, person, organization, or legal entity named on the child care license issued by DEL and responsible for operating the child care facility or agency.

"**Unsupervised access**" means:

(a) A subject individual will or may have the opportunity to be alone with a child in ~~((child care))~~ early learning services at any time for any length of time; and

(b) Access that is not within constant visual or auditory range of the licensee, an employee authorized by DEL, nor a relative or guardian of the child in ~~((child care))~~ early learning services.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0040 Background clearance requirements. (1) Effective July 1, 2012, all new subject individuals applying for a first-time background check must complete the background check application process through DEL to include:

(a) Completion of the required fingerprint process; and

(b) Payment of all required fees as provided in WAC 170-06-0044.

(2) All other subject individuals who have been qualified by the department to have unsupervised access to children in care, prior to July 1, 2012, must submit a new background check application no later than July 1, 2013. The subject person must:

(a) Submit the new background check application through DEL;

(b) Submit payment of all required fees as provided in WAC 170-06-0044;

(c) Complete the required fingerprint process if the subject individual has lived in Washington state for fewer than three consecutive years prior to July 1, 2013;

(d) Complete the required fingerprint process if the subject individual lives or has lived outside of Washington state since the previous background check was completed.

(3) Each subject individual completing the DEL background check process must disclose:

(a) Whether he or she has been convicted of any crime;

(b) Whether he or she has any pending criminal charges; and

(c) Whether there is any negative actions, to which he or she has been subject, as defined by WAC 170-06-0020.

(4) A subject individual must not have unsupervised access to children in care unless he or she has obtained DEL authorization under this chapter.

(5) A subject individual who has been disqualified by DEL must not be present on the premises ~~((of a licensed or certified facility during the hours for which the licensee is licensed or certified to provide child care))~~ where early learning services are provided during the hours of operation.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0041 ((Licensee)) Requirements. (1) ~~((An agency, licensee, or certified facility))~~ Early learning services must require a subject individual to complete the DEL background check application process:

(a) Within seven days of the date of hire;

(b) By the date a subject individual age sixteen or older moves onto the premises; or

(c) By the date a subject individual who lives on the premises turns sixteen years old.

(2) ~~((The licensee))~~ Early learning services must keep on-site a copy of each subject individual's background check clearance authorization.

(3) ~~((The licensee))~~ Early learning services must update the provider portal in the DEL system to verify the subject individuals associated with their program.

(4) ~~((The licensee))~~ Early learning services must verify annually that each subject individual who is required to have a background check has either obtained a department clearance or has applied for a department background check through the DEL system. The verification must be submitted with the licensee's annual license fee and declarations.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0042 Departmental investigation and redetermination. (1) The department will investigate and conduct a redetermination of the background clearance of a subject individual if the department receives a complaint or information from individuals, a law enforcement agency, or other federal, state, or local government agency.

(2) Subject to the requirements in RCW 43.215.215, the department may immediately suspend or modify the subject individual's background clearance.

(3) Subject to the requirements in RCW 43.215.300 and 43.215.305, and based on a determination that a subject individual lacks the appropriate character, suitability, or competence to provide child care or early learning services to children, the department may disqualify the subject individual from having any unsupervised access to children in ~~((child care agencies or in facilities that are licensed or certified by the department))~~ early learning services.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0043 Failure to report nonconviction and conviction information. (1) ~~((A licensee))~~ Early learning services must report to the department within twenty-four hours if he or she has knowledge of the following with respect to a subject individual working in that child care agency or who resigns or is terminated with or without cause:

(a) Any nonconviction and conviction information for a crime listed in WAC 170-06-0120;

(b) Any other nonconviction and conviction information for a crime that could be reasonably related to the subject individual's suitability to provide care for or have unsupervised access to children in care; or

(c) Any negative action as defined in WAC 170-06-0020.

(2) A subject individual who has been issued a background check clearance authorization pursuant to WAC 170-06-0040 must report nonconviction and conviction information to the department involving a disqualifying crime under WAC 170-06-0120 against that subject individual within twenty-four hours after he or she becomes aware of the event constituting the nonconviction or conviction information.

(3) A subject individual who intentionally or knowingly fails to report to the department as provided in subsection (1) or (2) of this section may have his or her background check clearance suspended. This penalty will be in addition to any other penalty that may be imposed as a result of a violation of this chapter or chapter 170-151, 170-295, or 170-296A WAC.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0050 Department action following completion of background inquiry. As part of the background check process the department will conduct a character, suitability or competence assessment as follows:

(1) Compare the background information with the DEL director's list, WAC 170-06-0120, to determine whether the subject individual must be disqualified under WAC 170-06-0070 (1) and (2). In doing this comparison, the department will use the following rules:

(a) A pending charge for a crime or a deferred prosecution is given the same weight as a conviction.

(b) If the conviction has been renamed it is given the same weight as the previous named conviction. For example, larceny is now called theft.

(c) Convictions whose titles are preceded with the word "attempted" are given the same weight as those titles without the word "attempted."

(d) The term "conviction" has the same meaning as the term "conviction record" as defined in RCW 10.97.030 and may include convictions or dispositions for crimes committed as either an adult or a juvenile. It may also include convictions or dispositions for offenses for which the person received a deferred or suspended sentence, unless the record has been expunged according to law.

(e) Convictions and pending charges from other states or jurisdictions will be treated the same as a crime or pending

charge in Washington state. If the elements of the crime from the foreign jurisdiction are not identical or not substantially similar to its Washington equivalent or if the foreign statute is broader than the Washington definition of the particular crime, the defendant's conduct, as evidenced by the indictment or information, will be analyzed to determine whether the conduct would have violated the comparable Washington statute.

(f) The crime will not be considered a conviction for the purposes of the department when the conviction has been the subject of an expungement, pardon, annulment, certification of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(2) Evaluate any negative action information to determine whether the subject individual has any negative actions requiring disqualification under WAC 170-06-0070(3).

(3) Evaluate any negative action information and any other pertinent background information, including nondisqualifying criminal convictions, to determine whether disqualification is warranted under WAC 170-06-0070 (4), (5) or (7).

(4) ~~((The department may discuss the result of the criminal history and background check information with the licensee upon request, except for protected contents of the FBI record of arrest and prosecution (RAP) sheet subject to federal regulation.))~~ Except for the protected contents of the FBI record of arrest and prosecution (RAP) sheet and subject to federal regulation, the department may discuss the results of the criminal history and background check information with the individual(s) authorized and designated by an early learning service.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0060 Additional information the department may consider. (1) If DEL has reason to believe that additional information is needed to determine the character, suitability or competence of the subject individual to care for or have unsupervised access to children in ~~((child care))~~ early learning services, additional information will be requested. Upon request, the subject individual must provide to the department any additional reports or information requested. This additional information may include, but is not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance abuse evaluations;
- (c) Psychiatric evaluations; and
- (d) Medical evaluations.

(2) Any evaluation requested under this section must be conducted by an evaluator who is licensed or certified under RCW 18.130.040. The evaluation will be at the expense of the person being evaluated.

(3) The subject individual must give the department permission to speak with the evaluator in subsection (1)(a) through (d) of this section prior to evaluation, to establish the need for and scope of the evaluation, and after the evaluation to discuss the results.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0070 Disqualification. Background information that will disqualify a subject individual.

(1) A subject individual who has a background containing any of the permanent convictions on the director's list, WAC 170-06-0120(1), will be permanently disqualified from providing licensed child care, caring for children or having unsupervised access to children in ~~((child-care))~~ early learning services.

(2) A subject individual who has a background containing any of the nonpermanent convictions on the director's list, WAC 170-06-0120(2), will be disqualified from providing licensed child care, caring for children or having unsupervised access to children in ~~((child-care))~~ early learning services for five years after the conviction date.

(3) A subject individual will be disqualified when their background contains a negative action, as defined in WAC 170-06-0020 that relates to:

(a) An act, finding, determination, decision, or the commission of abuse or neglect of a child as defined in chapters 26.44 RCW and 388-15 WAC.

(b) An act, finding, determination, decision, or commission of abuse or neglect or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW.

Background information that may disqualify a subject individual.

(4) A subject individual may be disqualified for other negative action(s), as defined in WAC 170-06-0020 which reasonably relate to his or her character, suitability, or competence to care for or have unsupervised access to children in ~~((child-care))~~ early learning services.

(5) A subject individual may be disqualified from caring for or having unsupervised access to children if the individual is the subject of a pending child protective services (CPS) investigation.

(6) A subject individual who has a "founded" finding for child abuse or neglect will not be authorized to care for or have unsupervised access to children during the administrative hearing and appeals process.

(7) The department may also disqualify a subject individual if that person has other nonconviction background information that renders him or her unsuitable to care for or have unsupervised access to children in ~~((child-care))~~ early learning services. Among the factors the department may consider are:

(a) The subject individual attempts to obtain a license, certification, or authorization by deceitful means, such as making false statements or omitting material information on an application.

(b) The subject individual used illegal drugs or misused or abused prescription drugs or alcohol that either affected their ability to perform their job duties while on the premises when children were present or presented a risk of harm to any child in ~~((child-care))~~ early learning services.

(c) The subject individual attempted, committed, permitted, or assisted in an illegal act on the premises. For purposes of this subsection, a subject individual attempted, committed, permitted, or assisted in an illegal act if he or she knew or rea-

sonably should have known that the illegal act occurred or would occur.

(d) Subject to federal and state law, the subject individual lacks sufficient physical or mental health to meet the needs of children in ~~((child-care))~~ early learning services.

(e) The subject individual had a license or certification for the care of children or vulnerable adults terminated, revoked, suspended or denied.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0080 Notification of disqualification.

(1) The department will notify the subject individual in writing if he or she is disqualified by the background check.

(2) If the department sends a notice of disqualification, the subject individual will not be authorized to care for or have unsupervised access to children in ~~((child-care))~~ early learning services, or to be present on the premises of ~~((a licensed or certified facility))~~ an early learning service during the hours for which ~~((a licensee is licensed or certified to provide child))~~ care is provided.

(3) Any decision by the department to disqualify a subject individual under this chapter is effective immediately upon receipt of notice from the department to the subject individual.

AMENDATORY SECTION (Amending WSR 12-12-040, filed 5/30/12, effective 7/1/12)

WAC 170-06-0115 Reconsideration of disqualification. (1) Subject to the requirements contained in chapter 170-06 WAC the department may reconsider an earlier decision to disqualify a subject individual.

(2) The disqualified subject individual must submit with his or her request for reconsideration a current and complete background check form and fingerprint card pursuant to WAC 170-06-0040.

(3) For a disqualification based on WAC 170-06-0070(4), 170-06-0070 (7)(a), (c), or (e), a disqualified subject individual's request for reconsideration will be granted only if the disqualified subject individual establishes by clear and convincing evidence there has been a change of circumstances since the date of the disqualification that demonstrates there is nothing about the subject individual's character, suitability, or competence that would prevent the subject individual from caring for or having unsupervised access to children in ~~((child-care))~~ early learning services. For purposes of (3) of this subsection a disqualification based on a "negative action," WAC 170-06-0070(4), 170-06-0070 (7)(c) or (e) does not include a decision, final determination, or finding made by an agency or administrative law judge that relates to:

(a) The commission of abuse or neglect of a child as defined in chapters 26.44 RCW and 388-15 WAC; or

(b) The commission of abuse or neglect of a vulnerable adult as defined in chapter 74.34 RCW.

(4) For a disqualification based on any of the circumstances described in WAC 170-06-0070(3), 170-06-0070 (7)(b) or (d) a disqualified subject individual's request for reconsideration will be granted only if the disqualified subject individual establishes by clear and convincing evidence

there has been a change of circumstances since the date of the disqualification that demonstrates there is nothing about the subject individual's character, suitability, or competence that would constitute a danger to a child's welfare if the individual is allowed to care for or have unsupervised access to children in care.

(5) The department will not reconsider qualifying a subject individual that was disqualified under WAC 170-06-0120(1).

(6) The department will not reconsider qualifying a subject individual that was disqualified under WAC 170-06-0120(2) for a period of five years from the date of the disqualifying conviction.

AMENDATORY SECTION (Amending WSR 14-13-002, filed 6/4/14, effective 7/5/14)

WAC 170-06-0120 Director's list. (1) A subject individual's conviction for any crimes listed in column (a) in the table below will permanently disqualify him or her from authorization to care for or have unsupervised access to children in ~~((child care))~~ early learning services.

(2) A subject individual's conviction for any crime listed in column (b) in the table below will disqualify him or her from authorization to care for or have unsupervised access to children in ~~((child care))~~ early learning services for a period of five years from the date of conviction.

(a) Crimes that permanently disqualify a subject individual	(b) Crimes that disqualify a subject individual for five years from date of conviction
Abandonment of a child	Abandonment of a dependent person not against child
Arson	Assault 3 not domestic violence
Assault 1	Assault 4/simple assault
Assault 2	Burglary
Assault 3 domestic violence	Coercion
Assault of a child	Custodial assault
Bail jumping	Custodial sexual misconduct
	Extortion 2
Child buying or selling	Forgery
Child molestation	Harassment
Commercial sexual abuse of a minor	
Communication with a minor for immoral purposes	Identity theft
Controlled substance homicide	Leading organized crime
Criminal mistreatment	Malicious explosion 3
Custodial interference	Malicious mischief

(a) Crimes that permanently disqualify a subject individual	(b) Crimes that disqualify a subject individual for five years from date of conviction
Dealing in depictions of minor engaged in sexually explicit conduct	Malicious placement of an explosive 2
Domestic violence (felonies only)	Malicious placement of an explosive 3
Drive-by shooting	Malicious placement of imitation device 1
Extortion 1	Patronizing a prostitute
Harassment domestic violence	Possess explosive device
Homicide by abuse	Promoting pornography
Homicide by watercraft	Promoting prostitution 1
Incendiary devices (possess, manufacture, dispose)	Promoting prostitution 2
Incest	Promoting suicide attempt
Indecent exposure/public indecency (felonies only)	Prostitution
Indecent liberties	Reckless endangerment
Kidnapping	Residential burglary
Luring	Stalking
Malicious explosion 1	Theft
Malicious explosion 2	Theft-welfare
Malicious harassment	Unlawful imprisonment
Malicious mischief domestic violence	Unlawful use of a building for drug purposes
Malicious placement of an explosive 1	Violation of the Imitation Controlled Substances Act (manufacture/deliver/intent)
Manslaughter	Violation of the Uniform Controlled Substances Act (manufacture/deliver/intent)
Murder/aggravated murder	Violation of the Uniform Legend Drug Act (manufacture/deliver/intent)
	Violation of the Uniform Precursor Drug Act (manufacture/deliver/intent)
Possess depictions minor engaged in sexual conduct	
Rape	
Rape of child	
Robbery	
Selling or distributing erotic material to a minor	

(a) Crimes that permanently disqualify a subject individual	(b) Crimes that disqualify a subject individual for five years from date of conviction
Sending or bringing into the state depictions of a minor	
Sexual exploitation of minors	
Sexual misconduct with a minor	
Sexually violating human remains	
Use of machine gun in felony	
Vehicular assault	
Vehicular homicide (negligent homicide)	
Violation of child abuse restraining order	
Violation of civil anti-harassment protection order	
Violation of protection/contact/restraining order	
Voyeurism	

AMENDATORY SECTION (Amending WSR 14-14-055, filed 6/26/14, effective 7/27/14)

WAC 170-100-090 Staff qualifications. (1) Contractors must provide adequate staff to comply with all ECEAP performance standards.

(2) Contractors must ensure that all ECEAP staff who have access to children comply with the background check procedures in RCW 43.215.215.

(3) All persons serving in the role of ECEAP lead teacher must meet one of the following qualifications:

(a) An associate or higher degree with the equivalent of thirty college quarter credits of early childhood education. These thirty credits may be included in the degree or in addition to the degree; or

(b) A valid Washington state teaching certificate with an endorsement in early childhood education (pre-K - grade 3) or early childhood special education.

~~((3))~~ (4) All persons serving in the role of ECEAP assistant teacher must meet one of the following qualifications:

(a) Employment as an early childhood education and assistance program assistant teacher in the same agency before July 1, 1999;

(b) The equivalent of twelve college quarter credits in early childhood education;

(c) Initial or higher Washington state early childhood education certificate; or

(d) A current Child Development Associate (CDA) credential awarded by the Council for Early Childhood Professional Recognition.

~~((4))~~ (5) All persons serving in the role of ECEAP family support staff must meet one of the following qualifications:

(a) Employment as an early childhood education and assistance program family support staff in the same agency before July 1, 1999;

(b) An associate's or higher degree with the equivalent of thirty college quarter credits of adult education, human development, human services, family support, social work, early childhood education, child development, psychology, or another field directly related to their job responsibilities. These thirty credits may be included in the degree or in addition to the degree; or

(c) A degree, credential or certificate from a comprehensive and competency-based program that increases knowledge and skills in providing direct family support services to families.

~~((5))~~ (6) All persons serving in the role of ECEAP health advocate must meet one of the following qualifications:

(a) Employment as an early childhood education and assistance program family support aide or health aide in the same agency before July 1, 2014; or

(b) The equivalent of twelve college quarter credits in family support, public health, health education, nursing, or another field directly related to their job responsibilities.

~~((6))~~ (7) The early childhood education and assistance program health consultant must meet one of the following qualifications:

(a) Licensed in Washington state as a registered nurse (R.N.) or physician (M.D., N.D., D.O.); or

(b) A bachelor's or higher degree in public health, nursing, health education, health sciences, medicine, or related field.

~~((7))~~ (8) The early childhood education and assistance program nutrition consultant must meet one of the following qualifications:

(a) Registered dietitian (RD) credentialed through the Commission on Dietetic Registration (CDR), the credentialing agency for the Academy of Nutrition and Dietetics (formerly the American Dietetic Association); or

(b) Washington state certified nutritionist under chapter 18.138 RCW.

~~((8))~~ (9) The early childhood education and assistance program mental health consultant must meet one of the following qualifications:

(a) Licensed by the Washington state department of health as a mental health counselor, marriage and family therapist, social worker, psychologist, psychiatrist, or psychiatric nurse;

(b) Approved by the Washington state department of health as an agency affiliated or certified counselor, with a master's degree in counseling, social work or related field; or

(c) Credentialed by the Washington state office of the superintendent of public instruction as a school counselor, social worker, or psychologist.

~~((9))~~ (10) Contractors must hire and employ staff who meet the qualifications for their position.

(a) If the best candidate for the position is not fully qualified, the contractor must ensure the newly hired staff person is on a professional development plan (PDP) to fully meet the qualifications of their role within five years from the date of hire.

(b) Contractors must monitor progress on all PDPs and ensure staff make adequate yearly progress to meet the required qualifications.

~~((10))~~ (11) Equivalent degrees and certificates from other states and countries are accepted for ECEAP staff qualifications.

WSR 15-19-170
PROPOSED RULES
NOXIOUS WEED
CONTROL BOARD

[Filed September 23, 2015, 11:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-14-018.

Title of Rule and Other Identifying Information: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties. The board is proposing to amend the state noxious weed list for 2016. Specifically, the board is considering: The addition of three Class C noxious weeds; modification of one Class B designation; update of one scientific name, and removal of one Class C noxious weed.

Hearing Location(s): The Confluence Technology Center, 285 Technology Center Way, Wenatchee, WA 98801, on November 3, 2015, at 1:00-3:00 p.m.

Date of Intended Adoption: November 28, 2015.

Submit Written Comments to: Alison Halpern, Washington State Noxious Weed Control Board (WSNWCBC), P.O. Box 42560, Olympia, WA 98504-2560, e-mail ahalpern@agr.wa.gov or noxiousweeds@agr.wa.gov, fax (360) 902-2094, by November 2, 2015.

Assistance for Persons with Disabilities: Contact Susie Allen by October 30, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state noxious weed list provides the basis for noxious weed control efforts for county noxious weed control boards and other entities. It also provides guidelines for the WSNWCBC. This proposal makes several amendments to WAC 16-750-005 through 16-750-015.

Reasons Supporting Proposal: WSNWCBC is charged with updating the state noxious weed list on an annual basis to ensure it accurately reflects the noxious weed control priorities and noxious weed distribution.

Statutory Authority for Adoption: Chapter 17.10 RCW.

Statute Being Implemented: Chapter 17.10 RCW.

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

Name of Proponent: WSNWCBC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Alison Halpern, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2053.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency prepare a small business economic impact statement (SBEIS) for proposed rules that impose more than a minor cost on businesses in an industry. An analysis of the direct economic effects of the proposed rule amendments indicates that costs to small businesses would be negligible or none at all. A copy of the analysis is shown below, and it can also be obtained by contacting Alison Halpern, WSNWCBC, P.O. Box 42560, Olympia, WA 98504-2560.

AN ANALYSIS TO DETERMINE IF A SMALL BUSINESS ECONOMIC IMPACT STATEMENT IS REQUIRED

Rule Summary: RCW 17.10.080 authorizes WSNWCBC to adopt a state noxious weed list annually to make changes as deemed necessary and helpful in reducing the threat and impact of noxious weeds in the state. These annual changes to the weed list are based primarily on proposals received by the WSNWCBC, and they are voted on in November following a public hearing. Possible changes to the weed list include but are not limited to: The addition of new species; deletion of species that have been eradicated or found to be less detrimental than originally predicted; changes in Class B areas designated for control; the change of noxious weed class of a species.

The current proposed changes to the 2016 noxious weed list include:

- Changing the designation of common bugloss, *Anchusa officinalis*, in Chelan County.
- Adding English hawthorn, *Crataegus monogyna*, as a Class C noxious weed.
- Adding ventenata, *Ventenata dubia*, as a Class C noxious weed.
- Adding medusahead, *Taeniatherum caput-medusae*, as a Class C noxious weed.
- Remove lepyrodielis, *Lepyrodielis holosteoides*, from the noxious weed list.
- Update scientific name of spikeweed from *Hemizonia pungens* to *Centromadia pungens*.

Purpose of this Analysis: RCW 19.85.030 requires agencies to prepare an SBEIS if the proposed rule will impose more than minor costs on businesses in an industry. The purpose of this analysis is to determine if the proposed changes to the 2016 noxious weed list will impose "more than minor costs" on the businesses directly affected by these proposed changes, which would thereby require WSNWCBC to prepare a formal SBEIS.

Nature of Aforementioned Noxious Weed Species in Washington:

Proposed modifications of a Class B designation: The designation of one Class B noxious weed will be adjusted to better match existing distribution of this species in Chelan County, namely to undesignate common bugloss, *Anchusa*

vulgaris, in the Entiat River Valley between the Columbia River confluence and Stormy Creek.

Proposed addition of Class C noxious weeds: English hawthorn (*Crataegus monogyna*) is a long-lived small tree and has been used in landscaping because of its white, showy flowers, bright red fruit, and sharp spines that made it useful as a hedgerow. It has been escaping cultivation in western Washington, particularly on San Juan Island, where it is encroaching on agricultural land and in natural areas. It is capable of hybridizing with the native western hawthorn. English hawthorn has been proposed as a Class C noxious weed. Control would not be required by the state and most counties have indicated they would (or already do) provide education but not require control at the local level. A few county weed boards indicated they might require control where English hawthorn has escaped. Adding this species as a noxious weed would not prohibit its transport or sale in the state of Washington.

Ventenata (*Ventenata dubia*) is a nonnative, invasive, winter annual grass that has rapidly expanded in perennial grass systems and in disturbed areas and managed areas in the past two decades throughout the Pacific Northwest. It is a particular problem in pasture, CRP, and hay production systems, where it can significantly reduce hay yields. Control would not be required by the state and most counties have indicated they would (or already do) provide education. Some counties have indicated they might require control of this invasive grass. Adding this species as a noxious weed would not prohibit its transport or sale in the state of Washington.

Medusahead (*Taeniatherum caput-medusae*) is a nonnative, invasive winter annual grass with long awns that can be somewhat spreading and twisting, and are covered in small barbs. The unpalatable grass invades many ecosystems, including grasslands and sagebrush steppe, where it significantly reduces native plants and valuable forage. Control would not be required by the state and most counties have indicated they would (or already do) provide education. Some counties have indicated they might require control of this invasive grass. Adding this species as a noxious weed would not prohibit its transport or sale in the state of Washington.

Proposed removal of a Class C noxious weed: *Lepyrodictis* (*Lepyrodictis holosteoides*) is a weedy, fast-growing annual plant in the pinks family. It had been considered problematic in pea and grain fields in Whitman County but currently does not appear to be of high concern.

Proposed change to a scientific name: The scientific name of one Class C noxious weed will be updated to improve consistency with national taxonomic standards: *Hemizonia pungens* → *Centromadia pungens*.

Affected Groups and the Cost of Compliance:

The horticultural industry: The horticultural industry is most likely to be indirectly impacted by the proposed listing of English hawthorn. However, it is unlikely that this listing will directly cause these businesses to lose sales, revenue, or jobs. The noxious weed list is separate from the Washington state department of agriculture (WSDA) quarantine list (chapter 16-752 WAC), which prohibits the sale and transport of particular species, thus these potential noxious weed

listings would not directly prohibit the sales of this [the] plants. Nurseries selling this nonnative, invasive species could potentially experience a decrease in sales of this shrub by consumers who voluntarily choose not to purchase ornamental species that are listed noxious weeds. To help assess the magnitude of this indirect economic impact, the state weed board developed a survey through SurveyMonkey (<https://www.surveymonkey.com/s/6DLMYYYY>).

A printed survey of the proposed listings for the four aforementioned invasive plants (along with a self-addressed stamped envelope) was mailed to one hundred twenty WSDA-licensed nurseries on August 26, 2015. The sampling strategy used was a systematic, random design so that at least three nurseries per county were included in the survey, with King, Pierce, and Spokane counties weighted more heavily based on demographics. Some counties such as Adams, Columbia, Douglas, and Wahkiakum had fewer than three retail nurseries and did not receive as many surveys. A link to the online survey was also e-mailed on August 26 to over eight hundred businesses licensed with WSDA that had provided e-mail addresses in their application.

We received a total of one hundred thirty-seven online responses between August 31 and September 13, 2015. Additionally, a total of forty-five paper-copy surveys were mailed back between August 16 and September 19 for a total of one hundred eighty-two unique responses. Seven paper surveys were returned to us as undeliverable.

Demographics of respondents: Of the total responding nurseries and landscaping companies, one hundred forty-five indicated that they were considered a small business as defined by RCW 19.85.020. Thirteen establishments were not small businesses. Four respondents were not sure if their businesses were considered small businesses, and twenty left this survey question blank. Nurseries participating in the surveys came from thirty-two different counties in Washington and two counties in Oregon. Two respondents noted that their businesses were situated in at least two counties.

Survey results:

Proposed modifications of current Class B designation: Class B noxious weeds are generally designated where they are absent, limited, or pose a serious threat to health, agriculture, or natural areas so the economic impact is not unreasonable. The proposed change in designation for one Class B noxious weed [can] not have a direct negative economic impact to any small businesses in the affected area, because the control requirement is being reduced.

Proposed addition of Class C noxious weeds:

Proposed addition of English hawthorn: Of one hundred sixty-one businesses that responded, only five (3.1%) noted that they stocked English hawthorn as part of their inventory. A total of one hundred fifty-three nurseries (95.0%) did not carry it, and three (1.9%) were not sure. Twenty-one respondents skipped the question. When asked if the possible listing of English hawthorn as a Class C noxious weed would cause their business to lose sales, only two of forty respondents (5%) indicated that it would cause a loss of sales or revenue. When asked for an estimate of potential loss of sales, one respondent entered \$650, the other indicated an estimated loss of \$500. One respondent noted that the nursery would never sell this species, one stressed the importance of educa-

tion about the use of hawthorn as a hedge species and its beneficial uses, one noted that it was a great species for birds but was not suited and one nursery indicated that it sold the native hawthorn (*Crataegus douglasii*) only.

Proposed addition of ventenata: None (0%) of the one hundred seventy-one businesses indicated that they carried ventenata. A total of one hundred sixty-four (95.9%) nurseries responded that they did not stock ventenata and seven respondents (4.1%) were not sure if they carried it. When asked if the possible listing of ventenata as a Class C noxious weed would cause their business to lose sales, twenty-six of the thirty-one respondents (83.9%) said it would not cause a reduction in sales and five (16.1%) were not sure. Two respondents commented that they would never sell this species, with one noting that he or she saw the impact of ventenata in rangeland.

Proposed addition of medusahead: A total of one hundred seventy-three out of one hundred seventy-six responding nurseries (93.3%) indicated that they did not stock medusahead in their inventory. One business (0.6%) indicated that it carried medusahead, and two respondents (1.1%) were not sure if they carried it. When asked if the possible listing of medusahead as a Class C noxious weed would cause their business to lose sales, thirty-four of thirty-seven respondents (91.9%) indicated that it would not cause a loss of sales or revenue, and three respondents (8.1%) were not sure. One respondent commented that it would never be sold there, and another noted that it should be listed as a noxious weed based on what it has done in rangeland.

Proposed removal of a Class C noxious weed: None of the county weed boards require control of this Class C noxious weed. Removing lepyrodiclis will have no economic impact to landowners.

Proposed updating of scientific name of one noxious weed: Updating taxonomic names of noxious weeds will have no economic impact to landowners.

Alternatives to the Proposed Assessment:

Proposed modification of a current Class B designation: The alternative to the proposed modification to a Class B designation would be the [to] leave the designation the way it is. Landowners in the proposed affected area would still be required to control common bugloss.

Proposed addition of three Class C noxious weeds: The alternative to the proposed listings would be to not list English hawthorn, ventenata, and medusahead as Class C noxious weeds, resulting in a status quo of the current situation, whereby individual landowners or land managers have

the option of voluntarily controlling these species. County noxious weed control boards could continue to educate about these species where they are a local concern, but control could not be mandated.

Proposed removal of a Class C noxious weed: The alternative to removing lepyrodiclis is to leave it on the list. None of the county weed boards require control of this Class C noxious weed.

Proposed updating of scientific names of one noxious weed: The current scientific name, though outdated, would still be used by the WSNWCB.

Conclusions: Few, if any, small businesses will be directly impacted by these proposed changes to the 2016 noxious weed list. Two of the proposed additions are invasive, winter annual grasses that are not used as ornamental or landscaping species. Based on feedback from the horticultural industry, English hawthorn does not seem to be widely carried in the nursery trade, and it is unlikely that these businesses will experience more-than-minor negative impacts to overall sales or revenue, even those nurseries that carry these English hawthorn. Moreover, the proposed listing will not prohibit nurseries from selling this species. The WSNWCB is committed to working with the horticultural industry to mitigate any potential reductions in sales and use of English hawthorn and other invasive ornamentals. Noninvasive alternatives to this species are already featured in our highly successful and popular GardenWise: Noninvasive plants for your garden.

Based upon the above analysis, the WSNWCB concludes that direct minor costs - if any - imposed would affect less than ten percent of small businesses and would not exceed \$100 in lost sales or revenue as a direct result of these proposed rule-making changes. Nor would any of these amendments to the noxious weed list directly cause the creation of or loss of any jobs. The WSNWCB concludes that small businesses will not be disproportionately impacted, nor would the proposed rule changes impose more than a minor cost on businesses in an industry. Therefore, we conclude that a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. WSNWCB is not one of the agencies listed in this section.

October [September] 23, 2015
 Alison Halpern
 Executive Secretary

AMENDATORY SECTION (Amending WSR 14-24-103, filed 12/2/14, effective 1/2/15)

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

Name		Will be a "Class B designate" in all lands lying within:	
(1)	blueweed, <i>Echium vulgare</i>	(a)	regions 1, 2, 3, 4, 6
		(b)	region 5, except Spokane County
(2)	Brazilian elodea, <i>Egeria densa</i>	(a)	region 1, except Grays Harbor and Pacific counties
		(b)	region 2, except Kitsap and Snohomish counties

Name		Will be a "Class B designate" in all lands lying within:
		(c) King County of region 2, except lakes Dolloff, Fenwick, Union, Washington, and Sammamish, and the Sammamish River
		(d) region 3, except Wahkiakum County
		(e) regions 4, 5, and 6
(3)	bugloss, annual, <i>Anchusa arvensis</i>	(a) regions 1, 2, 3, 4, and 6
		(b) region 5, except Spokane County
(4)	bugloss, common, <i>Anchusa officinalis</i>	(a) regions 1, 2, 3, (4) and 6
		(b) <u>All of region 4 except those areas lying within the Entiat River Valley between the Columbia River confluence and Stormy Creek in Chelan County</u>
		(c) region 5, except Spokane County
(5)	butterfly bush, <i>Buddleja davidii</i>	(a) The portion of Thurston County lying below the ordinary high-water mark of the Nisqually River in region 2
		(b) Cowlitz County of region 3
(6)	camelthorn, <i>Alhagi maurorum</i>	(a) regions 1, 2, 3, 4, and 5
		(b) region 6, except Walla Walla County
(7)	common fennel, <i>Foeniculum vulgare</i> (except bulbous fennel, <i>F. vulgare</i> var. <i>azoricum</i>)	(a) region 1, except Jefferson County
		(b) region 2, except King and Skagit counties
		(c) region 3, except Clark County
		(d) regions 4, 5, and 6
(8)	common reed, <i>Phragmites australis</i> (nonnative genotypes only)	(a) regions 1, 2, 3, and 4
		(b) region 5, except Grant County
		(c) Asotin, Columbia, and Garfield counties of region 6
(9)	Dalmatian toadflax, <i>Linaria dalmatica</i> ssp. <i>dalmatica</i>	(a) regions 1 and 2
		(b) region 3, except Cowlitz County
		(c) Adams and Lincoln counties of region 5
		(d) Benton and Walla Walla counties of region 6
(10)	Eurasian watermilfoil, <i>Myriophyllum spicatum</i>	(a) region 1, except Pacific and Mason counties
		(b) Island and San Juan counties of region 2
		(c) Clark and Cowlitz counties of region 3
		(d) Chelan and Okanogan counties, and all lakes with public boat launches except Fan Lake in Pend Oreille County of region 4
		(e) Adams and Lincoln counties of region 5
		(f) Asotin, Columbia, and Garfield counties of region 6
(11)	fanwort, <i>Cabomba caroliniana</i>	(a) regions 2, 4, 5, and 6
		(b) region 1, except Grays Harbor
		(c) region 3, except Cowlitz County
(12)	gorse, <i>Ulex europaeus</i>	(a) region 1, except Grays Harbor and Pacific counties
		(b) regions 2, 3, 4, 5, 6
(13)	grass-leaved arrowhead, <i>Sagittaria graminea</i>	(a) region 1, except Mason County
		(b) region 2, except Snohomish County
		(c) regions 3, 4, 5, and 6

Name		Will be a "Class B designate" in all lands lying within:	
(14)	hairy willow-herb, <i>Epilobium hirsutum</i>	(a)	regions 1, 3, and 4
		(b)	region 2, except Thurston and Whatcom counties
		(c)	region 5, except Klickitat County
		(d)	Asotin, Columbia, and Garfield counties of region 6
(15)	hawkweed oxtongue, <i>Picris hieracioides</i>	(a)	regions 1, 2, 4, 5, and 6
		(b)	region 3, except Skamania County
(16)	hawkweed, orange, <i>Hieracium aurantiacum</i>	(a)	regions 1, 3, and 6
		(b)	region 2, except Whatcom County
		(c)	region 4, except Pend Oreille and Stevens counties
		(d)	region 5, except Kittitas and Spokane counties
(17)	hawkweeds: All nonnative species and hybrids of the Meadow subgenus (<i>Pilosella</i>), including, but not limited to, mouseear (<i>Hieracium pilosella</i>), pale (<i>H. lactucella</i>), queen-devil (<i>H. glomeratum</i>), tall (<i>H. piloselloides</i>), whiplash (<i>H. flagellare</i>), yellow (<i>H. caespitosum</i>), and yellow-devil (<i>H. x floribundum</i>)	(a)	region 1
		(b)	region 2, except Pierce and Thurston counties
		(c)	region 3, except Cowlitz County
		(d)	Chelan, Douglas, and Okanogan counties of region 4
		(e)	region 5, except Klickitat and Spokane counties
		(f)	region 6
(18)	hawkweeds: All nonnative species and hybrids of the Wall subgenus (<i>Hieracium</i>), including, but not limited to, common (<i>Hieracium lachenalii</i>), European (<i>H. sabaudum</i>), polar (<i>H. atratum</i>), smooth (<i>H. laevigatum</i>), spotted (<i>H. maculatum</i>), and wall (<i>H. murorum</i>)	(a)	regions 1, 3, 5, and 6
		(b)	region 2, except King, Skagit and Whatcom counties
		(c)	region 4, except Stevens County
(19)	herb-Robert, <i>Geranium robertianum</i>	(a)	regions 4, 5, and 6
(20)	hoary alyssum, <i>Berteroa incana</i>	(a)	regions 1, 2, 3, and 6
		(b)	region 4, except Pend Oreille County and those areas lying north of highway 20 in Ferry County
		(c)	region 5, except Klickitat County
(21)	houndstongue, <i>Cynoglossum officinale</i>	(a)	regions 1, 2, and 3
		(b)	Chelan County of region 4
		(c)	Yakima, Grant and Adams counties of region 5
		(d)	Benton County of region 6
(22)	indigobush, <i>Amorpha fruticosa</i>	(a)	regions 1, 2, and 4
		(b)	Lewis and Skamania counties of region 3
		(c)	region 5, except Klickitat County
(23)	knapweed, black, <i>Centaurea nigra</i>	(a)	regions 1, 2, 3, 4, 5, and 6
(24)	knapweed, brown, <i>Centaurea jacea</i>	(a)	regions 1, 2, 3, 4, 5, and 6

Name		Will be a "Class B designate" in all lands lying within:	
(25)	knapweed, diffuse, <i>Centaurea diffusa</i>	(a)	region 1, except Mason County
		(b)	region 2
		(c)	region 3, except Cowlitz County
		(d)	Adams County of region 5
(26)	knapweed, meadow, <i>Centaurea x moncktonii</i>	(a)	regions 1 and 4
		(b)	region 2, except Pierce and Whatcom counties
		(c)	Thurston County of region 2, except below the ordinary high water mark of the Nisqually River
		(d)	region 3, except Cowlitz County
		(e)	region 5, except Kittitas and Klickitat counties
		(f)	region 6, except Franklin and Walla Walla counties
(27)	knapweed, Russian, <i>Acroptilon repens</i>	(a)	regions 1, 2, and 3
		(b)	Ferry and Pend Oreille counties of region 4
		(c)	Lincoln, Spokane, and Whitman counties of region 5
		(d)	Adams County of region 5, except for the area west of Highway 17 and north of Highway 26
		(e)	Asotin and Garfield counties of region 6
(28)	knapweed, spotted, <i>Centaurea stoebe</i>	(a)	region 1, except Grays Harbor
		(b)	region 2, except Whatcom County
		(c)	region 3, except Cowlitz County
		(d)	Ferry County of region 4
		(e)	Adams, Grant and Yakima counties of region 5
		(f)	region 6, except Columbia and Walla Walla counties
(29)	knotweed, Bohemian, <i>Polygonum x bohemicum</i>	(a)	Island County of region 2
		(b)	Skamania County of region 3
		(c)	region 4, except Stevens County
		(d)	region 5, except Whitman and Yakima counties
		(e)	region 6
(30)	knotweed, giant, <i>Polygonum sachalinense</i>	(a)	region 2, except King, Pierce, and Snohomish counties
		(b)	region 3, except Cowlitz and Lewis counties
		(c)	regions 4, 5, and 6
(31)	knotweed, Himalayan, <i>Polygonum polystachyum</i>	(a)	region 1, except Pacific County
		(b)	region 2, except King and Pierce counties
		(c)	Cowlitz, Lewis and Skamania counties of region 3
		(d)	region 4, except Stevens County
		(e)	regions 5 and 6
(32)	knotweed, Japanese, <i>Polygonum cuspidatum</i>	(a)	Island, San Juan, and Whatcom counties of region 2
		(b)	Skamania County of region 3
		(c)	region 4, except Okanogan and Stevens counties
		(d)	region 5, except Spokane County
		(e)	region 6
(33)	kochia, <i>Kochia scoparia</i>	(a)	regions 1, 2, and 3
		(b)	Stevens and Pend Oreille counties of region 4

Name		Will be a "Class B designate" in all lands lying within:	
		(c)	Adams County of region 5
(34)	lesser celandine, <i>Ficaria verna</i>	(a)	Snohomish County of region 2
		(b)	Skamania County of region 3
		(c)	Pend Oreille and Stevens counties of region 4
(35)	loosestrife, garden, <i>Lysimachia vulgaris</i>	(a)	regions 1, 2, 3, 4, 5, 6
(36)	loosestrife, purple, <i>Lythrum salicaria</i>	(a)	Clallam and Jefferson counties of region 1
		(b)	region 2, except Kitsap, Pierce, Skagit, and Snohomish counties
		(c)	Clark, Lewis, and Skamania counties of region 3
		(d)	region 4, except Douglas County
		(e)	region 5, except Grant and Spokane counties
		(f)	Columbia, Garfield, and Walla Walla counties of region 6
(37)	loosestrife, wand, <i>Lythrum virgatum</i>	(a)	Clallam and Jefferson counties of region 1
		(b)	region 2, except Kitsap, Pierce, Skagit, and Snohomish counties
		(c)	Clark, Lewis, and Skamania counties of region 3
		(d)	region 4, except Douglas County
		(e)	region 5, except Grant and Spokane counties
		(f)	Columbia, Garfield, and Walla Walla counties of region 6
(38)	parrotfeather, <i>Myriophyllum aquaticum</i>	(a)	region 1, except Pacific County
		(b)	regions 2, 4, 5, and 6
		(c)	Clark and Skamania counties of region 3
(39)	perennial pepperweed, <i>Lepidium latifolium</i>	(a)	regions 1, 2, and 4
		(b)	region 3, except Clark and Cowlitz counties
		(c)	Kittitas, Lincoln and Spokane counties of region 5
		(d)	Columbia and Garfield counties of region 6
(40)	poison hemlock, <i>Conium maculatum</i>	(a)	Clallam, Mason, and Pacific counties of region 1
		(b)	region 2, except King, Skagit, and Whatcom counties
		(c)	Clark and Skamania counties of region 3
		(d)	Chelan and Pend Oreille counties of region 4
		(e)	Grant, Kittitas and Lincoln counties of region 5
(41)	policeman's helmet, <i>Impatiens glandulifera</i>	(a)	region 1, except Pacific County
		(b)	region 2, except Pierce, Thurston, and Whatcom counties
		(c)	region 3, except Clark County
		(d)	regions 4, 5, and 6
(42)	puncturevine, <i>Tribulus terrestris</i>	(a)	regions 1, 2, and 3
		(b)	Ferry, Pend Oreille, and Stevens counties of region 4
		(c)	region 5, except Grant, Klickitat, and Yakima counties
(43)	rush skeletonweed, <i>Chondrilla juncea</i>	(a)	regions 1 and 3
		(b)	region 2, except Kitsap County
		(c)	region 4, except all areas of Stevens County south of Township 29

Name		Will be a "Class B designate" in all lands lying within:
		(d) Kittitas and Yakima counties of region 5, and Adams County, except those areas lying east of Sage Road, the western border of Range 36
		(e) Asotin County of region 6
(44)	saltcedar, <i>Tamarix ramosissima</i> (unless intentionally planted prior to 2004)	(a) regions 1, 3, 4, and 5 (b) region 2, except King and Thurston counties (c) region 6, except Benton and Franklin counties
(45)	Scotch broom, <i>Cytisus scoparius</i>	(a) regions 4 and 6 (b) region 5, except Klickitat County
(46)	shiny geranium, <i>Geranium lucidum</i>	(a) regions 1, 2, 4, 5, and 6 (b) region 3, except Clark County
(47)	spurge laurel, <i>Daphne laureola</i>	(a) region 1, except Clallam and Jefferson counties (b) region 2, except King, Kitsap, and Pierce counties (c) region 3, except Skamania County (d) regions 4, 5, and 6
(48)	spurge, leafy, <i>Euphorbia esula</i>	(a) regions 1, 2, 3, and 4 (b) region 5, except Spokane and Whitman counties (c) region 6, except Columbia and Garfield counties
(49)	spurge, myrtle, <i>Euphorbia myrsinites</i>	(a) region 1, except Clallam and Jefferson counties (b) region 2, except King, Kitsap, and Whatcom counties (c) regions 3, 5, and 6 (d) region 4, except Okanogan and Stevens counties
(50)	sulfur cinquefoil, <i>Potentilla recta</i>	(a) region 1 (b) region 2, except Pierce and Thurston counties (c) region 3, except Lewis and Skamania counties (d) Adams, Grant, Lincoln, and Whitman counties of region 5 (e) region 6, except Asotin County
(51)	tansy ragwort, <i>Senecio jacobaea</i>	(a) Island and San Juan counties of region 2 (b) Clark and Wahkiakum counties of region 3 (c) regions 4 and 6 (d) region 5, except Klickitat County
(52)	thistle, musk, <i>Carduus nutans</i>	(a) regions 1, 2, 3, and 6 (b) region 4, except Douglas and Ferry counties (c) region 5, except Kittitas County
(53)	thistle, plumeless, <i>Carduus acanthoides</i>	(a) regions 1, 2, 3, 5, 6 (b) region 4, except those areas north of State Highway 20 in Stevens County
(54)	thistle, Scotch, <i>Onopordum acanthium</i>	(a) regions 1, 2, and 3 (b) region 4, except Douglas County (c) region 5, except Spokane and Whitman counties
(55)	velvetleaf, <i>Abutilon theophrasti</i>	(a) regions 1, 2, 3, and 4 (b) region 5, except Yakima County (c) region 6, except Franklin County

Name		Will be a "Class B designate" in all lands lying within:	
(56)	water primrose, <i>Ludwigia hexapetala</i>	(a)	regions 1, 2, 4, 5, and 6
		(b)	region 3, except Cowlitz County
(57)	white bryony, <i>Bryonia alba</i>	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Whitman County
		(c)	Benton County of region 6
(58)	wild chervil, <i>Anthriscus sylvestris</i>	(a)	regions 1, 4, and 6
		(b)	region 2, except Island and Whatcom counties
		(c)	Wahkiakum and Lewis counties of region 3
		(d)	region 5, except Whitman County
(59)	yellow archangel, <i>Lamiaeum galeobdolon</i>	(a)	Clallam County of region 1
		(b)	Island, San Juan, Skagit, and Whatcom counties of region 2
		(c)	Skamania and Wahkiakum counties of region 3
		(d)	regions 4, 5, and 6
(60)	yellow floating heart, <i>Nymphoides peltata</i>	(a)	regions 1, 2, and 6
		(b)	region 3, except Cowlitz County
		(c)	region 4, except Stevens County
		(d)	region 5, except Spokane County
(61)	yellow nutsedge, <i>Cyperus esculentus</i>	(a)	regions 1, 3, and 4
		(b)	region 2, except Skagit and Thurston counties
		(c)	region 5, except Klickitat and Yakima Counties
		(d)	region 6, except Franklin and Walla Walla counties
(62)	yellow starthistle, <i>Centaurea solstitialis</i>	(a)	regions 1, 2, and 3
		(b)	region 4, except T36 R38 in the area contained within Hwy 395/Hwy 20, Pingston Creek Road, and Highland Loop Road in Stevens County
		(c)	region 5, except Klickitat, and Whitman counties

AMENDATORY SECTION (Amending WSR 14-24-103, filed 12/2/14, effective 1/2/15)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
absinth wormwood	<i>Artemisia absinthium</i>
Austrian fieldcress	<i>Rorippa austriaca</i>
babysbreath	<i>Gypsophila paniculata</i>
black henbane	<i>Hyoscyamus niger</i>
blackberry, evergreen	<i>Rubus laciniatus</i>
blackberry, Himalayan	<i>Rubus armeniacus</i>
blackgrass	<i>Alopecurus myosuroides</i>
buffalobur	<i>Solanum rostratum</i>
cereal rye	<i>Secale cereale</i>
common barberry	<i>Berberis vulgaris</i>
common catsear	<i>Hypochaeris radicata</i>

Common Name	Scientific Name
common groundsel	<i>Senecio vulgaris</i>
common St. Johnswort	<i>Hypericum perforatum</i>
common tansy	<i>Tanacetum vulgare</i>
common teasel	<i>Dipsacus fullonum</i>
curly-leaf pondweed	<i>Potamogeton crispus</i>
<u>English hawthorn</u>	<u><i>Crataegus monogyna</i></u>
English ivy 4 cultivars only:	<i>Hedera hibernica</i> 'Hibernica'
	<i>Hedera helix</i> 'Baltica'
	<i>Hedera helix</i> 'Pittsburgh'
	<i>Hedera helix</i> 'Star'
field bindweed	<i>Convolvulus arvensis</i>
<u>foxglove</u>	<u><i>Digitalis purpurea</i></u>
fragrant water lily	<i>Nymphaea odorata</i>
hairy whitetop	<i>Lepidium appelianum</i>

Common Name	Scientific Name
hoary cress	<i>Lepidium draba</i>
Italian arum	<i>Arum italicum</i>
Japanese eelgrass	<i>Zostera japonica</i>
jointed goatgrass	<i>Aegilops cylindrica</i>
jubata grass	<i>Cortaderia jubata</i>
lawnweed	<i>Soliva sessilis</i>
((lepyrodicelis	<i>Lepyrodicelis holosteoides</i>))
longspine sandbur	<i>Cenchrus longispinus</i>
<u>Medusahead</u>	<u><i>Taeniatherum caput-medusae</i></u>
nonnative cattail species and hybrids	Including, but not limited to, <i>Typha angustifolia</i> , <i>T. domingensis</i> and <i>T. x glauca</i>
old man's beard	<i>Clematis vitalba</i>
oxeye daisy	<i>Leucanthemum vulgare</i>
pampas grass	<i>Cortaderia selloana</i>
perennial sowthistle	<i>Sonchus arvensis</i> ssp. <i>arvensis</i>
reed canarygrass	<i>Phalaris arundinacea</i>
Russian olive	<i>Elaeagnus angustifolia</i>
scentless mayweed	<i>Matricaria perforata</i>
smoothseed alfalfa dodder	<i>Cuscuta approximata</i>
spikeweed	((<i>Hemizonia</i>)) <u><i>Centromadia pungens</i></u>
spiny cocklebur	<i>Xanthium spinosum</i>
Swainsonpea	<i>Sphaerophysa salsula</i>
thistle, bull	<i>Cirsium vulgare</i>
thistle, Canada	<i>Cirsium arvense</i>
tree-of-heaven	<i>Ailanthus altissima</i>
<u>ventenata grass</u>	<u><i>Ventenata dubia</i></u>
white cockle	<i>Silene latifolia</i> ssp. <i>alba</i>
wild carrot (except where commercially grown)	<i>Daucus carota</i>
yellow flag iris	<i>Iris pseudacorus</i>
yellow toadflax	<i>Linaria vulgaris</i>