

WSR 19-22-005
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed October 24, 2019, 10:51 a.m., effective January 1, 2020]

Effective Date of Rule: January 1, 2020.

Purpose: Rule making is needed to (1) rename the rule; (2) eliminate the thirty day notification requirement for peer review; (3) require participation in the American Institute of Certified Public Accountant's facilitated state board access program; and (4) correct reference numbers to various WAC sections and subsections where the numbers have changed or been eliminated.

Citation of Rules Affected by this Order: Amending WAC 4-30-130.

Statutory Authority for Adoption: RCW 18.04.055.

Adopted under notice filed as WSR 19-16-075 on July 31, 2019.

Changes Other than Editing from Proposed to Adopted Version: The committee name filed in the proposal was changed from compliance assurance oversight committee to peer review oversight committee.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 24, 2019.

Charles E. Satterlund, CPA
 Executive Director

AMENDATORY SECTION (Amending WSR 16-17-036, filed 8/9/16, effective 9/9/16)

WAC 4-30-130 ((What are the)) Quality assurance review (QAR) requirements for licensed CPA firms((?)).

(1) **Purpose.** The Washington state board of accountancy is charged with protection of the public interest and ensuring the dependability of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private or governmental. The purpose of the QAR program, such as peer review, is to monitor licensees' compliance with audit, compilation, review, and other attestation standards. If the board becomes aware that a firm's performance and/or reporting practices for audit, review, compilation, and other engagements covered by ((statements on standards for attestation engagements)) relevant recognized professional standards as delineated in WAC

4-30-048, may not be in accordance with ((applicable)) said professional standards, the board will take appropriate action to protect the public interest.

(2) **Peer review.** Generally, all firms licensed in Washington state offering and/or performing attest services ((as defined by WAC 4-30-010(5),)) or compilation services, as defined by WAC 4-30-010((12)), or other professional services for which a report expressing assurance is prescribed by professional standards, are required to participate in a board-approved peer review program as a condition of renewing each CPA firm license under RCW 18.04.215 and WAC 4-30-114. However, certain exemptions are listed in subsection ((11)) (10) of this section. Board-approved peer review programs include:

(a) The inspection processes of the Public Company Accounting Oversight Board (PCAOB);

(b) Peer review programs administered by the American Institute of CPAs (AICPA)((;

((c) Peer review programs administered by the Washington Society of CPAs (WSCPA); and

((d)) and/or their assigned administering entities (AE); and

((c)) Other programs recognized and approved by the board.

(3) **Enrollment in peer review:** A licensed firm must enroll in a board-approved peer review program **before** issuing a report for each of the following types of service ((or any other service the board determines)):

(a) Compilation on historical financial statements;

(b) Review on historical financial statements;

(c) Audit report on financial statements, performance audit reports, or examination reports on internal controls for nonpublic enterprises;

(d) Other professional services subject to Statements on Standards for Attestation Engagements.

The schedule for the firm's peer review shall be established according to the peer review program's standards. The board does not require any licensee to become a member of any organization administering a peer review program.

(4) **Participation in peer review.** Every firm that is required to participate in a peer review program shall have a peer review in accordance with the peer review program standards.

(a) It is the responsibility of the firm to anticipate its needs for review services in sufficient time to enable the reviewer to complete the review by the assigned review date.

(b) Any firm that is dropped or terminated by a peer review program for any reason shall have twenty-one days to provide written notice to the board of such termination or drop and to request authorization from the board to enroll in another board-approved peer review program.

(c) In the event a firm is merged, otherwise combined, dissolved or separated, the peer review program shall determine which firm is considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

(d) A firm choosing to change to another peer review program may do so only if there is not an open active peer review and if the peer review is performed in accordance with

the minimum standards for performing and reporting on peer reviews.

(5) **Reporting requirements.** Every firm must provide the following information, along with the appropriate fees, with every application for renewal of a firm license by April 30th of the renewal year:

(a) Certify whether the firm does or does not perform attest services or compilation services as defined by WAC 4-30-010 ~~((5), (12))~~, or other professional services for which a report expressing assurance is prescribed by professional standards in Washington state;

(b) If the firm is subject to the peer review requirements, provide the name of the approved peer review program in which the firm is enrolled, and the period covered by the firm's most recent peer review;

(c) Certify the result of the firm's most recent peer review.

Failure to timely submit complete information and the related fee by the April 30th due date can result in the assessment of late fees. The board may waive late fees based on individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment.

~~(6) ((A firm must notify the board within thirty days of the date the peer reviewer or a team captain advises the firm that a grade of pass with deficiencies or fail will be recommended. The notification must include the details of any required corrective action plan being recommended by the peer reviewer or team captain, and the planned date (or time period within which) the firm would intend to complete such remedial action or actions if the proposed corrective action plan is approved by the appropriate peer review acceptance committee.~~

~~Notwithstanding any extensions of time by the peer review program administrator, failure by the firm to meet its planned schedule for completing its specific corrective action plan required by the peer review program and/or timely pay for the peer review services can result in board action.~~

~~(7)) Documents required. ((A firm that has opted out of participating)) Any firm required to undergo peer review per subsection (2) of this section is required to participate in the AICPA Facilitated State Board Access (FSBA) ((program shall provide to the board copies of the following documents related to the peer review report:~~

~~(a) Peer review report issued;~~

~~(b) Firm's letter of response, if any;~~

~~(c) Letter of acceptance from peer review program;~~

~~(d) Recommended action letter from the peer review program, if any;~~

~~(e) A letter from the firm to the board describing corrective actions taken by the firm that relate to recommendations of the peer review program;~~

~~(f) Other information the firm deems important for the board's understanding of the information submitted; and~~

~~(g)). Other information the board deems important, may be requested for ((the)) understanding ((of)) the information submitted.~~

~~((8)) (7) Document retention.~~ RCW 18.04.390(4) and WAC 4-30-051~~((11))~~ (11) require a firm to retain audit and review records and documentation for a period of seven years

after the firm concludes an audit or review of a client's financial statements.

~~((9))~~ (8) Extensions. The board may grant an extension of time for submission of the peer review report to the board. Extensions will be determined by the board on a case-by-case basis.

~~((10))~~ (9) Verification. The board may verify the certifications of peer review reports that firms provide.

~~((11))~~ (10) Exemption from peer review.

(a) Out-of-state firms that do not have a physical location in this state, but perform attest or compilation services in this state, and are otherwise qualified for practice privileges under RCW 18.04.195 (1)(a)(iii)(A) through (D) or (b) are not required to participate in the board's program if the out-of-state firm participates in a board-approved peer review program or similar program approved or sponsored by another state's board of accountancy.

(b) Firms that do not perform attest services ~~((as defined by WAC 4-30-010(5),))~~ or compilation services, as defined by WAC 4-30-010~~((12))~~, or other professional services for which a report expressing assurance is prescribed by professional standards are not required to participate in a peer review program, and shall request exemption on each firm license renewal application.

(c) Firms that prepare financial statements **which do not require reports** under Statements on Standards for Accounting and Review Services (management use only compilation reports) and that perform no other attest or compilation services, are not required to participate in a peer review program; however, any such engagements performed by a firm that is otherwise required to participate in a peer review program shall be included in the selection of engagements subject to peer review.

~~((12))~~ (11) Quality assurance oversight.

(a) The board will:

(i) Annually appoint a ~~((compliance assurance))~~ peer review oversight committee, and such other committees as the board, in its discretion deems necessary, to provide oversight of the administration of approved peer review programs in order to provide reasonable assurance that peer reviews are being conducted and reported on in accordance with the minimum standards for performing and reporting on peer reviews;

(ii) Consider reports from the ~~((compliance assurance))~~ peer review oversight committee;

(iii) Direct the evaluation of peer review reports and related documents submitted by firms;

(iv) Determine the appropriate action for firms that have unresolved matters relating to the peer review process or that have not complied with, or acted in disregard of the peer review requirements;

(v) Determine appropriate action for firms when issues with a peer review report may warrant further action; and

(vi) Take appropriate actions the board, in its discretion, deems appropriate to carry out the functions of the quality assurance review program and achieve the purpose of the peer review requirement.

(b) The ~~((compliance assurance))~~ peer review oversight committee shall conduct oversight of approved peer review programs at least semiannually to provide reasonable

assurance that such programs are in compliance with the minimum standards for performing and reporting on peer reviews.

(i) The ~~((compliance assurance))~~ peer review oversight committee's oversight procedures may consist of, but are not limited to:

(A) Attending the peer review program's report acceptance body (RAB) meetings during consideration of peer review documents;

(B) Observing the peer review program administrator's internal review of program and quality control compliance;

(C) Observing the peer review program's review of the administrator's process.

(ii) The ~~((compliance))~~ peer review oversight ~~((assurance))~~ committee shall report to the board any modifications to approved peer review programs and shall make recommendations regarding the continued approval of peer review programs.

~~((13))~~ **(12) Remedies.** The board will take appropriate action to protect the public's interest if the board determines through the peer review process or otherwise that a firm's performance and/or reporting practices are not or may not be in accordance with applicable professional standards, the firm does not comply with peer review program requirements, or the firm does not comply with all or some of the reporting, remedial action, and/or fee payment requirements of subsection (5) of this section. The board's actions may include, but are not limited to:

(a) Require the firm to develop quality control procedures to provide reasonable assurance that similar occurrences will not occur in the future;

(b) Require any individual licensee who had responsibility for, or who substantially participated in the engagement(s), to successfully complete specific courses or types of continuing education as specified by the board;

(c) Require that the reviewed firm responsible for engagement(s) submit all or specified categories of its compilation or attest working papers and reports to a preissuance evaluation performed by a board-approved licensee in a manner and for a duration prescribed by the board. Prior to the firm issuing the reports on the engagements reviewed, the board-approved licensee shall submit to the board for board acceptance a report of the findings, including the nature and frequency of recommended actions to the firm. The cost of the board-approved preissuance evaluation will be at the firm's expense;

(d) Require the reviewed firm to engage a board-approved licensee to conduct a board-prescribed on-site field review of the firm's work product and practices or perform other investigative procedures to assess the degree or pervasiveness of nonconforming work product. The board-approved licensee engaged by the firm shall submit a report of the findings to the board within thirty days of the completion of the services. The cost of the board-prescribed on-site review or other board-prescribed procedures will be at the firm's expense; or

(e) Initiate an investigation pursuant to RCW 18.04.295, 18.04.305, and/or 18.04.320.

(f) Absent an investigation the specific rating of a single peer review report is not a sufficient basis to warrant disciplinary action.

~~((14))~~ **(13)** The board may solicit and review licensee reports and/or other information covered by the reports from clients, public agencies, banks, and other users of such information.

WSR 19-22-016

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed October 25, 2019, 2:00 p.m., effective November 25, 2019]

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

Purpose: The agency is removing language exceptions to prescription requirements for over-the-counter (OTC) products to promote tobacco/nicotine cessation. The agency is also updating language and adding products to comply with the Centers for Medicare and Medicaid Services (CMS) prescription requirements and the apple health preferred drug list (PDL).

Citation of Rules Affected by this Order: Amending WAC 182-530-2000 and 182-530-2100.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; section 1927, (42 U.S.C. 1396r-8) (d)(2)(D), (d)(2)(G), (d)(7)(A), (k)(4).

Adopted under notice filed as WSR 19-19-064 on September 16, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: October 25, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-17-071, filed 8/16/16, effective 9/16/16)

WAC 182-530-2000 Covered—Outpatient drugs, devices, and drug-related supplies. (1) The medicaid agency covers:

(a) Outpatient drugs, including over-the-counter (OTC) drugs, as defined in WAC 182-530-1050, subject to the limitations and requirements in this chapter, when:

(i) The drug is approved by the Food and Drug Administration (FDA);

(ii) The drug is for a medically accepted indication as defined in WAC 182-530-1050;

(iii) The drug is not excluded from coverage under WAC 182-530-2100;

(iv) The manufacturer has a signed drug rebate agreement with the federal Department of Health and Human Services (DHHS). Exceptions to the drug rebate requirement are described in WAC 182-530-7500; and

(v) The drug is prescribed by a provider with prescriptive authority. Exceptions to the prescription requirement exist for family planning and emergency contraception in (b) of this subsection ~~(; and for OTC drugs that promote smoking cessation in (g) of this subsection))~~.

(b) Family planning drugs, devices, and drug-related supplies per chapter 182-532 WAC and as follows:

(i) OTC family planning drugs, devices, and drug-related supplies without a prescription when the agency determines it necessary for client access and safety;

(ii) Family planning drugs that do not meet the federal drug rebate requirement in WAC 182-530-7500 on a case-by-case basis; and

(iii) Contraceptive patches, contraceptive rings, and oral contraceptives, excluding emergency contraception, when dispensed in a one-year supply only, unless:

(A) A smaller supply is directed by the prescriber ~~(;)~~;

(B) A smaller supply is requested by the client ~~(;)~~;

(C) The pharmacy does not have adequate stock.

(c) Vitamins, minerals, and enzymes when prescribed for:

(i) Prenatal vitamins, when prescribed and dispensed to pregnant women;

(ii) A medical condition caused by a clinically documented deficiency;

(iii) A United States Preventive Services Task Force recommendation with an A or B rating;

(iv) Fluoride for clients under age twenty-one; or

(v) A clinically documented medical condition that causes vitamin, mineral, or enzyme deficiencies, and the deficiency cannot be treated through other dietary interventions.

(d) OTC drugs, vitamins, and minerals when determined by the agency to be the least costly therapeutic alternative for a medically accepted indication. ~~((The agency will maintain and publish a list of the covered OTC drugs available to clients which have been))~~ All covered OTC products determined to be the least costly therapeutic alternatives for medically accepted indications will be included on the agency's published apple health preferred drug list. This subsection ~~((1)(d) of this section))~~ does not apply to products prescribed for the treatment of cough or cold symptoms. See this subsection (1)((i) under) (h) of this ((subsection)) section and WAC 182-530-2100 (1)(b)(v) for coverage of products prescribed for the treatment of cough and cold symptoms.

(e) Drug-related devices and drug-related supplies as an outpatient pharmacy benefit when:

(i) Prescribed by a provider with prescribing authority;

(ii) Essential for the administration of a covered drug;

(iii) Not excluded from coverage under WAC 182-530-2100; and

(iv) Determined by the agency that a product covered under chapter 182-543 WAC related to durable medical equipment and supplies should be available at retail pharmacies.

(f) Preservatives, flavoring, or coloring agents, only when used as a suspending agent in a compound.

~~(g) OTC and prescription drugs((; without a prescription,)) to promote ((smoking)) tobacco/nicotine cessation ((only for clients age eighteen or older and participating in an agency approved smoking cessation program. Limitation extensions as described in WAC 182-501-0169 are prohibited for the age and counseling requirements in this section.~~

~~(h) Drugs prescribed to promote smoking cessation only for clients participating in an agency approved smoking cessation program, or for clients who are pregnant with a verifiable estimated due date and receiving smoking cessation counseling from the prescribing provider. Limitation extensions as described in WAC 182-501-0169 are prohibited for the age and counseling requirements in this section.~~

~~(i) For the treatment of cough and cold symptoms:~~

~~(i) Only the))~~.

~~(h) The following generic((; single ingredient formulations:~~

~~(A) Guaifenesin 100 mg/5 ml liquid or syrup;~~

~~(B) Dextromethorphan 15 mg/5 ml liquid or syrup;~~

~~(C) Pseudoephedrine 30 mg or 60 mg tablets;~~

~~(D) Saline nasal spray 0.65%; and~~

~~(ii) Generic combination product dextromethorphan-guaifenesin 10-100 mg/5 ml syrup, including sugar free formulations.)) products for the treatment of cough and cold:~~

~~(i) Dextromethorphan 15 mg/5 ml liquid or syrup;~~

~~(ii) Dextromethorphan/Guaifenesin 10 mg - 100/5 ml liquid or syrup, including sugar-free formulations;~~

~~(iii) Guaifenesin 100 mg/5 ml liquid or syrup;~~

~~(iv) Phenylephrine 10 mg tablets;~~

~~(v) Phenylephrine 2.5 mg/ml liquid or syrup;~~

~~(vi) Pseudoephedrine 30 mg and 60 mg tablets;~~

~~(vii) Pseudoephedrine 15 mg/5 ml liquid or syrup; and~~

~~(viii) Saline 0.65% nasal spray.~~

(2) The agency does not reimburse for any drug, device, or drug-related supply not meeting the coverage requirements under this section.

AMENDATORY SECTION (Amending WSR 16-17-071, filed 8/16/16, effective 9/16/16)

WAC 182-530-2100 Noncovered—Outpatient drugs and pharmaceutical supplies. (1) The medicaid agency does not cover:

(a) A drug that is:

(i) Not approved by the Food and Drug Administration (FDA); or

(ii) Prescribed for a nonmedically accepted indication, including diagnosis, dose, or dosage schedule that is not evidenced-based.

(b) A drug prescribed:

(i) For weight loss or gain;

(ii) For infertility, frigidity, impotency;

(iii) For sexual or erectile dysfunction;

(iv) For cosmetic purposes or hair growth; or

(v) For treatment of cough or cold symptoms, except as listed in WAC 182-530-2000 (1)(i).

(c) Drugs used to treat sexual or erectile dysfunction, in accordance with section 1927 (d)(2)(K) of the Social Security Act, unless such drugs are used to treat a condition other than sexual or erectile dysfunction, and these uses have been approved by the Food and Drug Administration.

(d) Drugs listed in the federal register as "less-than-effective" ("DESI" drugs) or which are identical, similar, or related to such drugs.

(e) Outpatient drugs for which the manufacturer requires as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or manufacturer's designee.

(f) A product:

(i) With an obsolete National Drug Code (NDC) for more than two years;

(ii) With a terminated NDC;

(iii) Whose shelf life has expired; or

(iv) Which does not have an eleven-digit NDC.

(g) Over-the-counter (OTC) drugs, vitamins, and minerals, except as allowed under WAC 182-530-2000 (1)(i).

(h) Any drug regularly supplied by other public agencies as an integral part of program activity (e.g., immunization vaccines for children).

(i) Free pharmaceutical samples.

~~((j) OTC or prescription drugs to promote smoking cessation unless the client is age eighteen or older and participating in an agency-approved cessation program, or is pregnant with a verifiable estimated due date and receiving smoking cessation counseling from the prescribing provider.))~~

(2) A noncovered drug can be requested through the exception to rule process as described in WAC 182-501-0160.

(3) If a noncovered drug is prescribed through the early and periodic screening, diagnosis, and treatment (EPSDT) process, an authorization request may be submitted indicating that the request is EPSDT related, and the request will be evaluated according to the process in WAC 182-501-0165. (See WAC 182-534-0100 for EPSDT rules.)

WSR 19-22-017

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed October 25, 2019, 2:19 p.m., effective November 25, 2019]

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

Purpose: The agency is revising this section to remove requirements and restrictions on how a provider addresses tobacco/nicotine cessation, and to centralize coverage information to make it easier for providers to navigate this topic. This includes moving and cross-referencing content from the maternity care and newborn delivery section (WAC 182-533-0400) and adding information on pharmacotherapy for tobacco/nicotine cessation.

Citation of Rules Affected by this Order: Amending WAC 182-531-0100, 182-531-1720, and 182-533-0400.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-19-076 on September 17, 2019.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: October 25, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-21-058, filed 10/9/18, effective 11/9/18)

WAC 182-531-0100 Scope of coverage for physician-related and health care professional services—General and administrative. (1) The medicaid agency covers health care services, equipment, and supplies listed in this chapter, according to agency rules and subject to the limitations and requirements in this chapter, when they are:

(a) Within the scope of an eligible client's Washington apple health program. Refer to WAC 182-501-0060 and 182-501-0065; and

(b) Medically necessary as defined in WAC 182-500-0070.

(2) The agency evaluates a request for a service that is in a covered category under the provisions of WAC 182-501-0165.

(3) The agency evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 182-501-0169.

(4) The agency covers the following physician-related services and health care professional services, subject to the conditions in subsections (1), (2), and (3) of this section:

(a) Alcohol and substance misuse counseling (refer to WAC 182-531-1710);

(b) Allergen immunotherapy services;

(c) Anesthesia services;

(d) Dialysis and end stage renal disease services (refer to chapter 182-540 WAC);

(e) Emergency physician services;

(f) ENT (ear, nose, and throat) related services;

(g) Early and periodic screening, diagnosis, and treatment (EPSDT) services (refer to WAC 182-534-0100);

(h) Habilitative services (refer to WAC 182-545-400);

(i) Reproductive health services (refer to chapter 182-532 WAC);

(j) Hospital inpatient services (refer to chapter 182-550 WAC);

(k) Maternity care, delivery, and newborn care services (refer to chapter 182-533 WAC);

(l) Office visits;

(m) Vision-related services (refer to chapter 182-544 WAC for vision hardware for clients twenty years of age and younger);

(n) Osteopathic treatment services;

(o) Pathology and laboratory services;

(p) Psychiatry and other rehabilitation services (refer to chapter 182-550 WAC);

(q) Foot care and podiatry services (refer to WAC 182-531-1300);

(r) Primary care services;

(s) Psychiatric services;

(t) Psychotherapy services (refer to WAC 182-531-1400);

(u) Pulmonary and respiratory services;

(v) Radiology services;

(w) Surgical services;

(x) Cosmetic, reconstructive, or plastic surgery, and related services and supplies to correct physiological defects (e.g., congenital or as a result of illness or physical trauma), or for mastectomy reconstruction for post cancer treatment;

(y) Telemedicine (refer to WAC 182-531-1730);

(z) Tobacco/nicotine cessation counseling (refer to WAC 182-531-1720);

(aa) Vaccines for adults, adolescents, and children in the United States administered according to the current advisory committee on immunization practices (ACIP) recommended immunization schedule published by the Centers for Disease Control and Prevention (CDC). Vaccines outside the regular schedule may be covered if determined to be medically necessary;

(bb) Other outpatient physician services.

(5) The agency covers physical examinations for Washington apple health clients only when the physical examination is for one or more of the following:

(a) A screening exam covered by the EPSDT program (see WAC 182-534-0100);

(b) An annual exam for clients of the division of developmental disabilities; or

(c) A screening pap smear, mammogram, or prostate exam.

(6) By providing covered services to a client eligible for Washington apple health, a provider who meets the requirements in WAC 182-502-0005(3) accepts the agency's rules and fees which includes federal and state law and regulations, billing instructions, and provider notices.

AMENDATORY SECTION (Amending WSR 15-03-041, filed 1/12/15, effective 2/12/15)

WAC 182-531-1720 Tobacco/nicotine cessation counseling. (1) The medicaid agency covers tobacco/nicotine cessation counseling when ~~((delivered by qualified providers through the agency contracted quitline or during face-to-face office visits for tobacco cessation for pregnant clients.))~~

~~(2) The agency pays for face-to-face office visits for tobacco cessation counseling for pregnant clients with the following limits:~~

~~(a) When provided by physicians, advanced registered nurse practitioners (ARNPs), physician assistants-certified (PA-Cs), naturopathic physicians, and dentists;~~

~~(b) Two cessation counseling attempts (or up to eight sessions) are allowed every twelve months. An attempt is defined as up to four cessation counseling sessions.~~

~~(3) To be paid for tobacco cessation counseling through SBIRT, providers must bill the agency using the agency's published billing instructions):~~

(a) Delivered by qualified providers through an agency-approved tobacco/nicotine cessation telephone counseling service;

(b) The client is pregnant or in the postpartum period as defined in 42 C.F.R. 435.170. The agency pays for face-to-face office visits for tobacco/nicotine cessation counseling for these clients with the following limits:

(i) Counseling must be provided by qualified physicians, advanced registered nurse practitioners (ARNPs), physician assistants-certified (PA-Cs), naturopathic physicians, pharmacists, certified nurse-midwives (CNM), licensed midwives (LM), psychologists, or dentists;

(ii) Two tobacco/nicotine cessation counseling attempts are allowed every twelve months. An attempt is defined as up to four tobacco/nicotine cessation counseling sessions; and

(iii) The agency does not cover more than one face-to-face tobacco/nicotine cessation counseling session per client per day. The provider must keep written documentation in the client's record for each session.

(c) Provided through screening, brief intervention, and referral to treatment (SBIRT). To receive payment for tobacco/nicotine cessation counseling through SBIRT, providers must bill the agency using the agency's published billing instructions.

(2) A provider may prescribe pharmacotherapy for tobacco/nicotine cessation when the provider considers the treatment appropriate for the client. The agency covers certain pharmacotherapy for tobacco/nicotine cessation, including prescription drugs and over-the-counter (OTC) nicotine replacement therapy (NRT), as described in chapter 182-530 WAC.

AMENDATORY SECTION (Amending WSR 15-24-021, filed 11/19/15, effective 1/1/16)

WAC 182-533-0400 Maternity care and newborn delivery. (1) The following definitions and abbreviations and those found in 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 medicaid agency's payment for the hospital or birthing center charges.

This does not include the agency's payment for the professional fee.

(d) **"Global fee"** means the fee the 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 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 182-531-1850 for reimbursement methodology.)

(2) The agency covers full scope medical maternity care and newborn delivery services for fee-for-service and managed care clients under WAC 182-501-0060. ~~((See subsection (21) of this section for client eligibility limitations for smoking cessation counseling provided as part of antepartum care services.))~~

(3) The agency does not provide maternity care and delivery services to clients who are eligible for:

(a) Family planning only programs (a pregnant client under ~~((this))~~ these programs should be referred to the ~~((local community services office))~~ Washington healthplanfinder via www.wahealthplanfinder.org for eligibility review); or

(b) Any other program not listed in this section.

(4) The agency requires providers of maternity care and newborn delivery services to meet all the following requirements:

(a) Providers must be currently licensed:

(i) By the state of Washington's department of health (DOH), or department of licensing, or both; or

(ii) According to the laws and rules of any other state, if exempt under federal law~~((s))~~.

(b) Providers must have a signed core provider agreement with the agency;

(c) Providers must be practicing within the scope of their licensure; and

(d) Providers must 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)).

(5) The agency covers total obstetrical care services (paid under a global fee). Total obstetrical care includes all 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 agency pays that provider a global obstetrical fee.

(7) When an eligible client receives services from more than one provider, the agency pays each provider for the services furnished. The separate services that the agency pays appear in subsection (5) of this section.

(8) The 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 agency's fees for antepartum care include all 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 agency covers certain antepartum services in addition to the bundled services listed in subsection (9) of this section 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 agency provides a list of diagnoses, or conditions, or both, that the agency identifies as justification for more frequent monitoring visits; or

(ii) A prenatal management fee for "high-risk" maternity clients. This fee is payable to either a physician or a certified nurse midwife.

(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

(ii) Treatment of medical problems that are not related to the pregnancy. The agency pays these fees to physicians or advanced registered nurse practitioners (ARNP).

(11) The agency covers high-risk pregnancies. The 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 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 agency pays a facility fee for delivery services in the following settings:

(a) Inpatient hospital; or

(b) Birthing centers.

(14) The 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 agency covers hospital delivery services for an eligible client as defined in subsection (2) of this section. The 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 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 agency's payment for professional services in subsection (15) of this section, the 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, 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

(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 agency allows additional fees for any of the following:

(a) High-risk vaginal delivery;

(b) Multiple vaginal births. The agency's typical payment covers delivery of the first child. For each subsequent child, the agency pays at fifty percent of the provider's usual and customary charge, up to the agency's maximum allowable fee; or

(c) High-risk cesarean section delivery.

(19) The agency does not pay separately for any of the following:

(a) More than one child delivered by cesarean section during a surgery. The 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:

(a) 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; or

(b) If the provider documents a clinical situation that supports medical necessity.

(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 agency covers counseling for tobacco ~~((dependency))~~ nicotine cessation for eligible ~~((pregnant women through two months postpregnancy. This service is commonly referred to as smoking cessation education or counseling.~~

~~(a) The agency covers smoking cessation counseling for all FFS pregnant clients except those enrolled in TAKE CHARGE, Family Planning and Alien Emergency Medical (AEM). See (g) of this subsection for limitations on prescribing pharmacotherapy for eligible clients. Clients enrolled in managed care may participate in a smoking cessation program through their plan.~~

~~(b) The agency pays a fee to 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 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);~~

~~(iv) Licensed midwives (LM);~~

~~(v) Psychologists; and~~

~~(vi) Pharmacists.~~

~~(e) The 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. The provider must keep written documentation in the client's file for each session. The documentation must reflect the information in (f) 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 agency's physician related services 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 (g) of this subsection); and~~

~~(v) Arranging to track the progress of the client's attempt to stop smoking.~~

~~(g) A provider may prescribe pharmacotherapy for smoking cessation for a client when the provider considers the treatment is appropriate for the client. The agency covers certain pharmacotherapy for smoking cessation, including prescription drugs and over the counter nicotine replacement therapy, as follows:~~

~~(i) The product must meet the rebate requirements described in WAC 182-530-7500;~~

~~(ii) The product must be prescribed by a physician, ARNP, or physician assistant;~~

~~(iii) The client for whom the product is prescribed must be age eighteen or older;~~

~~(iv) The pharmacy provider must obtain prior authorization from the agency when filling the prescription for pharmacotherapy; and~~

~~(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.~~

~~(h) The agency's payment for smoking cessation counseling is subject to postpay review under WAC 182-502-0230 and chapter 182-502A WAC)) clients who are pregnant or in the postpartum period as defined in 42 C.F.R. 435.170. See WAC 182-531-1720.~~

WSR 19-22-020

PERMANENT RULES

WENATCHEE VALLEY COLLEGE

[Filed October 28, 2019, 9:55 a.m., effective November 28, 2019]

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

Purpose: Wenatchee Valley College has proposed amendments to its rules concerning student's rights and freedoms as codified in chapter 132W-112 WAC. Chapter 132W-112 WAC is in need of updating to further balance the college's responsibility to fulfill its mission as a state educational institution of Washington with the interests of college groups seeking to assemble in common areas of the campus for expressive activity.

Citation of Rules Affected by this Order: New chapter 132W-277 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Adopted under notice filed as WSR 19-16-144 on October 23 [August 7], 2019.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: October 23, 2019.

Jim Richardson
President

NEW SECTION

WAC 132W-112-002 Expressive activities. This chapter shall be known as facility use for expressive activities.

NEW SECTION

WAC 132W-112-103 Statement of purpose. Wenatchee Valley College District is an educational institution provided and maintained by the people of the state of Washington. College facilities are reserved primarily for educational use including, but not limited to, instruction, research, public assembly of college groups, student activities and other activities directly related to the educational mission of the college. The public character of the college does not grant to individuals an unlimited license to engage in activity which limits, interferes with, or otherwise disrupts the normal activities to which the college's facilities and grounds are dedicated. Accordingly, the college designates the common areas of the college as a limited public forum dedicated to the use of college groups, subject to the time, place, and manner limitations and restrictions set forth in this policy. Groups or individuals who are invited or permitted to engage in first amendment activities at the college do not represent an endorsement by Wenatchee Valley College or the board of trustees.

The purpose of the time, place, and manner regulations set forth in this policy is to establish procedures and reasonable controls for the use of college facilities. It is intended to balance the college's responsibility to fulfill its mission as a state educational institution of Washington with the interests of college groups seeking to assemble in common areas of the campus for expressive activity. The college recognizes that college groups should be accorded the opportunity to utilize the facilities and grounds of the college to the fullest extent possible. The college has designated certain sites as public use areas open to noncollege groups as set forth herein.

NEW SECTION

WAC 132W-112-105 Definitions. (1) "College facilities" includes all buildings, structures, grounds, office space and parking lots.

(2) "College groups" means individuals or groups who are currently enrolled students or current employees of the college, or guests of the college who are sponsored by a recognized student organization, employee organization, or the administration of the college.

(3) "Expressive activity" includes, but is not necessarily limited to, informational picketing, petition circulation, the distribution of informational leaflets or pamphlets, speech-making, demonstrations, rallies, appearances of speakers in outdoor areas, protests, meetings to display group feelings or sentiments and/or other types of assemblies to share information, perspective or viewpoints.

(4) "Noncollege groups" means individuals, or combinations of individuals, who are not currently enrolled students or current employees of the college and who are not officially affiliated or associated with, or invited guests of a recognized student organization, recognized employee group, or the administration of the college.

(5) "Public use areas" means those areas of each campus that the college has chosen to open as places where noncollege groups may assemble for expressive activity protected by the first amendment, subject to reasonable time, place, or manner restrictions.

NEW SECTION

WAC 132W-112-115 Use of facilities. (1) Subject to the regulations and requirements of this policy, groups may use the campus limited forums for expressive activities between the hours of 8:00 a.m. and 10:00 p.m.

(2) College buildings, rooms, and athletic fields may be rented by noncollege groups in accordance with the college's facilities use policy. When renting college buildings or athletic fields, an individual or organization may be required to post a bond and/or obtain insurance to protect the college against cost or other liability in accordance with the college's facility use policy. When the college grants permission to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage.

(3) Any sound amplification device may only be used at a volume which does not disrupt or disturb the normal use of classrooms, offices or laboratories or any previously scheduled college event or activity.

(4) Groups are encouraged to notify the campus public safety department no later than twenty-four hours in advance of an event. However, unscheduled events are permitted so long as the event does not materially disrupt any other function occurring at the facility.

(5) All sites used for expressive activity should be cleaned up and left in their original condition and may be subject to inspection by a representative of the college after the event. Reasonable charges may be assessed against the sponsoring organization for the costs of extraordinary cleanup or for the repair of damaged property.

(6) All fire, safety, sanitation or special regulations specified for the event are to be obeyed. The college cannot and will not provide utility connections or hook-ups for purposes of expressive activity conducted pursuant to this policy.

(7) The event must not be conducted in such a manner to obstruct vehicular, bicycle, pedestrian or other traffic or otherwise interfere with ingress or egress to the college, or to college buildings or facilities, or to college activities or events. The event must not create safety hazards or pose unreasonable safety risks to college students, employees or invitees to the college.

(8) The event must not interfere with educational activities inside or outside any college building or otherwise prevent the college from fulfilling its mission and achieving its primary purpose of providing an education to its students. The event must not materially infringe on the rights and privileges of college students, employees, or invitees to the college.

(9) There shall be no overnight camping on college facilities or grounds. Camping is defined to include sleeping, carrying on cooking activities, or storing personal belongings for personal habitation, or the erection of tents or other shelters or structures used for purposes of personal habitation.

(10) College facilities may not be used for commercial sales, solicitations, advertising or promotional activities, unless:

(a) Such activities serve educational purposes of the college; and

(b) Such activities are under the sponsorship of a college department or office or officially chartered student club.

(11) The event must also be conducted in accordance with any other applicable college policies and regulations, local ordinances and state or federal laws.

NEW SECTION

WAC 132W-112-125 Additional requirements for noncollege groups. (1) College buildings, rooms, and athletic fields may be rented by noncollege groups in accordance with the college's facilities use policy. When renting college buildings or athletic fields, an individual or organization may be required to post a bond and/or obtain insurance to protect the college against cost or other liability in accordance with the college's facility use policy. When the college grants permission to use its facilities it is with the express understanding and condition that the individual or organization assumes full responsibility for any loss or damage.

(2) Noncollege groups may otherwise use college facilities for expressive activity as identified in this policy.

(3) The college designates the following area(s) as the sole limited public forum area(s) for use by noncollege groups for expressive activity on campus:

(a) The public use area may be scheduled. Scheduled groups have priority of use over unscheduled groups:

(i) On the college's Wenatchee campus, the limited public forum is located on the west side of the campus fountain in front of the Van Tassell building.

(ii) On the Omak campus, the limited public forum is located on the north side of campus located adjacent to the garden behind the North Classroom building.

(b) Please contact the vice president of administrative services for more information.

(4) Noncollege groups that seek to engage in expressive activity on the designated public use area(s) are encouraged to provide notice to the campus public safety office no later than twenty-four hours prior to the event along with the following information solely to ensure:

(a) The area is not otherwise scheduled; and

(b) To give the college an opportunity to assess any security needs:

(i) The name, address, and telephone number of a contact person for the individual, group, entity, or organization sponsoring the event;

(ii) The date, time and requested location of the event;

(iii) The nature and purpose of the event; and

(iv) The estimated number of people expected to participate in the event.

NEW SECTION

WAC 132W-112-127 Distribution of materials. College groups may post information on bulletin boards, kiosks and other display areas designated for that purpose, and may distribute materials throughout the open areas of campus, in compliance with WVC policy 200.180, distribution of materials. Noncollege groups may distribute materials only at the site designated for noncollege groups. The sponsoring organization is encouraged, but not required, to include its name and address on the distributed information.

NEW SECTION

WAC 132W-112-135 Trespass. (1) Noncollege groups who violate these rules, or whose conduct jeopardizes the health or safety of others, will be advised of the specific nature of the violation, and if they persist in the violation, will be requested by the campus president or designee to leave the college property. Such a request will be deemed to withdraw the license or privilege to enter onto or remain upon any portion of the college facilities of the person or group of persons requested to leave, and subject such individuals to arrest under the criminal trespass provisions of chapter 9A.52 RCW or municipal ordinance.

(2) Members of the college community (students, faculty, and staff) who do not comply with these regulations will be reported to the appropriate college office or agency for action in accordance with established college policies.

(3) When the college revokes the license or privilege of any person to be on college property, temporarily or for a stated period of time, that person may file a request for review of the decision with the vice president of administration or designee within ten days of receipt of the trespass notice. The request must contain the reasons why the individual disagrees with the trespass notice. The trespass notice will remain in effect during the pendency of any review period. The decision of the vice president of administrative services or designee will be the final decision of the college and should be issued within five work days.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132W-112-100 Freedom of speech and assembly.

WSR 19-22-032**PERMANENT RULES****OFFICE OF THE****INSURANCE COMMISSIONER**

[Filed October 30, 2019, 5:35 p.m., effective November 30, 2019]

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

Purpose: The purpose of the rules is to codify in chapter 284-43 WAC, specific standards for association health plan rate and form filings. These requirements will ensure that such filings are standardized and consistent with United States Department of Labor requirements related to the status of associations as bona fide employer groups.

Citation of Rules Affected by this Order: New WAC 284-43-8100, 284-43-8110 and 284-43-8120; and amending WAC 284-43-0310 and 284-43-0330.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.733.

Adopted under notice filed as WSR 19-19-080 on September 17, 2019.

Changes Other than Editing from Proposed to Adopted Version: Technical revision to WAC 284-43-0330(1) to clarify

the required minimum number of association health plan enrollees.

A final cost-benefit analysis is available by contacting Tabba Alam, P.O. Box 40260, Olympia, WA 98502, phone 360-725-7170, email TabbaA@oic.wa.gov, website www.insurance.wa.gov.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 2, Repealed 0.

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

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

Date Adopted: October 30, 2019.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-0310 Association health plan compliance with statutory or regulatory changes. (1) Issuers must file a group health plan, other than a small group health plan, rate and form filing as provided in RCW 48.43.733. An issuer offering plans through an association or member-governed group must implement all new applicable federal or state health plan market requirements when they become effective. Replacement requirements for this section apply based on whether the purchaser is classified as an individual, small group, or large group purchaser. These requirements also apply to ~~((member))~~ employer member groups of less than two or to individual member purchasers.

(2) An issuer providing plans of the type referenced in subsection (1) of this section must discontinue a noncompliant plan, and offer replacement plans effective on the renewal date of the master group contract for large groups, and on the group's anniversary renewal date for nongrandfathered small group and individual plans.

(3) If the association is a large group as defined in WAC 284-43-0330(1), the same renewal date must apply to all ~~((participating))~~ employer~~(s))~~ members and individual~~(s))~~ employer members, and the replacement coverage must take effect on the same date for each participant. The purchaser's anniversary date must not be used in lieu of this uniform renewal date for purposes of discontinuation and replacement of noncompliant coverage.

(4) If the association is not a large group as defined in WAC 284-43-0330(1), and the master group contract and ~~((the member group))~~ an employer member's contract do not have the same renewal date, an issuer must provide notice of the discontinuation and replacement of the plan to the

affected ~~((association))~~ employer member ~~((group))~~ or plan sponsor, and each enrollee in the affected employer member ~~((group))~~ plan, not fewer than ninety days prior to the employer member's anniversary renewal date.

(5) If an issuer does not have a replacement plan approved by the commissioner to offer in place of a discontinued plan, the issuer must assist each enrollee in identifying a replacement option offered by another issuer.

(6) For purposes of this section, "purchaser" means the group or individual whose eligibility for the plan is based in whole or in part on membership in the association or member-governed group.

(7) For purposes of this section, the "anniversary renewal date" means the initial or first date on which a purchasing group's health benefit plan coverage became effective with the issuer, regardless of whether the issuer is subject to other agreements, contracts or trust documents that establish requirements related to the purchaser's coverage in addition to the health benefit plan.

(8) An issuer must not adjust the master contract renewal or anniversary date to delay or prevent application of any federal or state health plan market requirement.

AMENDATORY SECTION (Amending WSR 16-14-106, filed 7/6/16, effective 8/6/16)

WAC 284-43-0330 Transition of plans purchased by association members. (1) An issuer must not offer or issue a health plan to ~~((individuals or))~~ small groups through an association or member-governed group as a large group plan unless the ~~((association or member-governed group to whom the plan is issued constitutes an employer under 29 U.S.C. § 1002(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et. seq.), as amended, and the))~~ collective number of eligible employees of all member employers is more than fifty(:

~~((2) An issuer must make a good faith effort to ensure that any association or member-governed group to whom it issues a large group plan meets the requirements of subsection (1) of this section prior to submitting its form and rate filings to the commissioner, and prior to issuing such coverage. An issuer must maintain the documentation supporting the determination and provide it to the commissioner upon request. An issuer may reasonably rely upon an opinion from the U.S. Department of Labor as reasonable proof that the requirements of 29 U.S.C. 1002(5) are met by the association or member-governed group.~~

~~((3))~~ and the member-governed group or association health plan meets the requirements of WAC 284-43-8110 for a Pathway 1 Association Health Plan, or WAC 284-43-8120 for a governmental plan.

(2) For plans offered to association or member-governed groups that do not meet the requirements of subsection (1) of this section, the following specific requirements apply:

(a) An issuer must treat grandfathered plans issued under those purchasing arrangements as a closed pool, and file a single case closed pool rate filing. For purposes of this section, a single case closed pool rate filing means a rate filing which includes the rates and the rate filing information only for the issuer's closed pool enrollees.

(b) For each single case closed pool rate filing, an issuer must file a certification from an officer of the issuer attesting that:

(i) The employer ~~((groups))~~ members covered by the filing joined the association prior to or on March 23, 2010;

(ii) The issuer can establish with documentation in its files that none of the conditions triggering termination of grandfathered status set forth in WAC 284-43-0250 or in 45 C.F.R. 2590.715-1251(g) have occurred for any plan members.

~~((4))~~ (3) For each grandfathered plan issued to an association or member governed group under subsection ~~((3))~~ (2) of this section, the issuer must include the following items in its rate filing:

(a) Plan number;

(b) Identification number assigned to each employer ~~((group))~~ member, including employer ~~((groups))~~ members of less than two;

(c) Initial contract or certificate date;

(d) Number of employees for each employer ~~((group))~~ member, pursuant to RCW 48.43.005(11);

(e) Number of enrolled employees for each employer ~~((group))~~ member for the prior calendar year;

(f) Current and proposed rate schedule for each employer ~~((group))~~ member; and

(g) Description of the rating methodology and rate change for each employer ~~((group))~~ member.

~~((5))~~ (4) WAC 284-43-6540 applies for a single case rate closed pool under this section.

NEW SECTION

WAC 284-43-8100 Definitions. (1) "Department" means the United States (U.S.) Department of Labor.

(2) "Employer member" means an employer that participates in the health plan.

(3) "Pathway 1 Association Health Plan" means a bona fide group or association of employers to whom a health plan is issued that constitutes an employer under section 3(5) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. Sec. 1002(5)), and U.S. Department of Labor guidance related to Pathway 1 Association Health Plans.

(4) "Member-governed group" means a group consisting of multiple employers, organized as an entity other than an association, that constitutes an employer under section 3(5) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. Sec. 1002(5)), and U.S. Department of Labor guidance.

NEW SECTION

WAC 284-43-8110 Requirements for Pathway 1 Association Health Plan form filings related to the bona fide status of Pathway 1 Associations. (1) Carriers must file a group health plan, other than a small group health plan, rate and form filing as provided in RCW 48.43.733. The form filing for an association health plan submitted by a carrier must include documents related to "Evidence as an Employer." The documents must include, at a minimum:

(a) The member-governed group or association's bylaws, or other comparable controlling documents if no bylaws exist;

(b) A trust agreement or other organizational document that shows the purpose of the member-governed group or association and who governs the member-governed group or association;

(c) A statement of the member-governed group or association's history;

(d) An advisory opinion from the Department, if available, demonstrating that the member-governed group or association is qualified to purchase association health plan coverage; and

(e) If a Department advisory opinion is not available or if changes have been made to the documents related to "Evidence as an Employer" such that the Department advisory opinion no longer accurately reflects the composition, organization or structure of the member-governed group or association with respect to the factors included in (e)(ii) of this subsection, an opinion from an attorney attesting to the fact that the member-governed group or association qualifies as an employer under 29 U.S.C. Sec. 1002(5). The attorney attestation must explain how and why the member-governed group or association meets each of the criteria below, based upon the facts and circumstances of the member-governed group's or association's governance and operations during the twelve months immediately preceding submission of the form filing, with explicit references to relevant language drawn from the member-governed group or association's bylaws, trust agreement, or other organizational document:

(i) The member-governed group or association has been formed for some purpose other than the provision of health coverage or other employee benefits;

(ii) The employer members of the member-governed group or association are in the same trade, industry, line of business or profession. A list of the occupational categories/industrial classifications of the employers eligible to participate in the member-governed group or association must be submitted with the attestation, along with a description of the following:

(A) How employer members are solicited;

(B) Eligibility criteria to participate in the member-governed group or association;

(C) Employer members who are currently participating in the member-governed group or association;

(D) The process by which the member-governed group or association was formed;

(E) The purpose for the formation of the member-governed group or association;

(F) Preexisting relationships of any of the employer members of the member-governed group or association;

(G) The powers, rights, and privileges of employer members that exist by reason of their status as employers;

(H) The functions and activities of the member-governed group or association are controlled by its employer members, and the member-governed group's or association's employer members that participate in the group health plan control the plan. Control must be present both in form and substance.

(f) Each employer member of the member-governed group or association participating in the group health plan is

a person acting directly as an employer of at least one employee who is a participant covered under the health plan.

(2) Disability insurers issuing a health plan to a member-governed group or association domiciled outside of Washington state that indicates on their most recently submitted Department Form M-1 that they are operating in the state of Washington must file their "Evidence as an Employer," as provided in subsection (1) of this section, within thirty working days after the earlier of:

(a) The date group contract negotiations are completed; or

(b) The date renewal premiums are implemented.

(3) The carrier's form filing also must include its most recently submitted Form M-1, as filed with and published by the Department.

(4) If required under subsection (1)(e) of this section, the attorney attestation identified in subsection (1)(e) of this section shall be filed as a supporting document with the carrier's form filing, in accordance with the following:

(a) Attorney attestations in compliance with subsection (1)(e) of this section must be filed for Plan Year 2020 and every five years thereafter, regardless of whether any changes have been made to the association or member-governed group's composition, organization, or structure that would change the conclusion in the attorney attestation;

(b) For the interceding four filing years, the attestation may be prepared by an officer of the carrier in lieu of an attorney, so long as:

(i) No changes have been made to the documents previously submitted as "Evidence as an Employer" that would impact the analysis in subsection (1)(e) of this section; and

(ii) Such attestation represents a good faith effort by the carrier to ensure that the association or member-governed group meets the requirements of subsection (1) of this section.

(c) Attorney attestations in compliance with subsection (1)(e) of this section must be filed each plan year that a member-governed group or association changes issuers and a benefit plan is issued by a new issuer.

If an attorney attestation in compliance with subsection (1)(e) of this section was filed within the last five years, the issuer may refile the same attorney attestation, provided there has been no change to the association or member-governed group's composition, organization, or structure that would change the conclusion in the attorney attestation.

(5) An attorney attestation under this section must be specific to the member-governed group or association and need not be specific to the issuer offering the health plan to the member-governed group or association.

(6) This section applies to plans issued or renewed on or after January 1, 2020.

NEW SECTION

WAC 284-43-8120 Requirements for governmental plans. (1) Carriers must file a group health plan, other than a small group health plan, rate and form filing as provided in RCW 48.43.733.

(2) Carriers issuing a governmental plan under section 3 (32) of the Employee Retirement Income Security Act of

1974 (ERISA) (29 U.S.C. Sec. 1002(32)) must submit with their form filing either an opinion letter from the Department demonstrating that the plan is a governmental plan under section 3(32), or an opinion from an attorney attesting to the fact that the entity establishing or maintaining the plan is a governmental entity as provided in section 3(32), citing the applicable law authorizing establishment of the entity.

(3) An attorney attestation submitted in compliance with subsection (2) of this section is not required to comply with WAC 284-43-8110 (1)(c)(ii) regarding the contents of the attorney attestation, and needs only identify the legal and statutory authority for establishment of the entity.

(4) This section applies to plans issued or renewed on or after January 1, 2020.

NEW SECTION

The following sections of the Washington Administrative Code are decodified and recodified as follows:

Old WAC Number	New WAC Number
284-43-0310	284-43-8130
284-43-0330	284-43-8140

WSR 19-22-034

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed October 31, 2019, 7:44 a.m., effective December 1, 2019]

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

Purpose: The adoption of the amended chapter 308-15 WAC, Geologist licensing services, is needed to identify credentialed vocations outside of geology to perform certain services currently performed only by licensed geologists; and to broaden the methods for applicants to meet educational requirements. Additionally, to codify into rule, the policies put into place by the board.

Citation of Rules Affected by this Order: New WAC 308-15-065, 308-15-083, 308-15-085 and 308-15-087; repealing WAC 308-15-107; and amending chapter 308-15 WAC.

Statutory Authority for Adoption: RCW 18.220.040, 18.220.050, and 43.24.086.

Adopted under notice filed as WSR 19-15-055 on July 12, 2019.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 17, Repealed 1.

Date Adopted: October 31, 2019.

Damon Monroe
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-010 State board of licensing. ~~((1) Meetings:))~~ The Washington state geologist licensing board, hereafter called the board, will hold ~~((quarterly))~~ at least one regular public meeting~~((s))~~ each year. ~~((Special))~~ Additional public meetings may be held at such times and places as the board ~~((finds))~~ may deem necessary. ~~((Public notice of all public meetings will be issued as required by the Open Public Meetings Act, chapter 42.30 RCW.))~~

~~((2) Rules of order: The latest edition of Robert's Rules of Order will govern the conduct of business at meetings and sessions of the board.~~

~~((3) Officers:))~~ Annually, the board will elect a chair, a vice chair, and a secretary ~~((at its regular quarterly meeting in March.~~

~~((4) Quorum: A quorum at any regular or special meeting or session will consist of four members of the board.~~

~~((5) Licensed geologists: The board will maintain a roster of licensed geologists.))~~ for the upcoming year.

AMENDATORY SECTION (Amending WSR 07-13-038, filed 6/13/07, effective 7/14/07)

WAC 308-15-020 Definitions. (1) ~~((**"Board"** means the Washington state geologist licensing board.~~

~~((2) **"Department"** means the Washington state department of licensing.~~

~~((3))~~ **"Geologic interpretation,"** as applied to the practice of geology and its specialties, is the ~~((iterative))~~ process ~~((by which geologists, using generally accepted geologic principles, determine geologic history, origin and process from))~~ used to evaluate geologic conditions based on review of available information, and observation and testing of rock, soil material and ((water)) groundwater characteristics((, contents, distribution, orientation, lateral and vertical continuity; and resulting landforms)).

~~((4) **"Geological"**))~~ (2) **"Geologic work of a character satisfactory to the board"** means that the applicant's qualifying work history consists of professional experience in the practice of geology. ~~((Professional geological work is work performed at a professional level that requires the application of professional knowledge, principles and methods to geological problems through the exercise of individual initiative and judgment in investigating.))~~ Geologic work requires applying sufficient education, knowledge, and experience to geologic problems by investigating, and acquiring surface and subsurface data, and measuring, interpreting, and reporting on the physical ((phenomena)) properties of the earth. Implicit in this definition ((are the recognition)) is the understanding and pertinence of professional responsibility and

integrity, and ~~((the acknowledgment of))~~ performance under minimal supervision. Professional ~~((geological))~~ geologic work specifically does not include routine activities by themselves such as drafting, ~~((sampling))~~ sample collection, sample preparation, or routine laboratory work, ~~((or core logging))~~ where the elements of ~~((initiative))~~ scientific judgment and ~~((decision making are lacking))~~ interpretation are not required, nor does it include activities which do not use scientific methods to ~~((process and))~~ interpret geologic data. ~~((H))~~ Professional geology work also does not include engineering or other physical sciences where ~~((geological))~~ geology investigation, analysis and interpretation are ~~((minimal or lacking))~~ not used. Professional specialty experience is considered to meet the requirements of this definition.

~~((5))~~ **"Geologist web site"** means the internet web site maintained by the department of licensing.

~~((6))~~ **(3) "National Association of State Boards of Geology" or "ASBOG"** means the organization responsible for developing, publishing and grading National Geologist Licensing Examinations.

~~((7))~~ **(4) "Professional specialty practice of a character satisfactory to the board"** means that the applicant has qualifying work history pertinent to the specialty that meets the standards for professional geologic work defined ~~((above))~~ in subsection (2) of this section. Elements, typical applications, and example project types ~~((of projects))~~, for the engineering geologist and hydrogeologist specialties are ~~((outlined))~~ defined in WAC 308-15-053.

~~((8))~~ **(5) "Reciprocity"** means the issuance of a license without examination as a geologist or specialty geologist to ~~((a person))~~ an applicant who holds a license or certificate of qualifications issued by proper authority of any state, territory, or possession of the United States, District of Columbia, or any foreign country, if the applicant meets the requirements outlined in WAC 308-15-040 for a geologist license, in WAC 308-15-055 for an engineering geologist license, and in WAC 308-15-057 for a hydrogeologist license.

~~((9))~~ **(6) "Year of professional practice"** means at least 1600 hours of work in the practice ~~((during a))~~ of geology within one calendar year. Examples of a "year of professional practice" include 200 eight-hour days or 160 ten-hour days ~~((during a))~~ within one year. Part-time work will be counted on a prorated basis.

~~((10))~~ **(7) "Year of professional specialty practice"** means at least 1600 hours of work in a specialty ~~((during a))~~ within one calendar year, per examples given in subsection ~~((9))~~ (6) of this section.

~~((11))~~ **(8) "Geologist in training"** means an individual who has met ~~((aH))~~ the educational requirements ~~((outlined))~~ described in WAC 308-15-040(2), and has passed the ASBOG Fundamentals of Geology examination, but does not meet the experience requirements outline in WAC 308-15-040(3).

AMENDATORY SECTION (Amending WSR 06-04-022, filed 1/23/06, effective 2/23/06)

WAC 308-15-030 How do I apply for a geologist license? (1) Review the available options for licensure:

(a) ~~((Examination))~~ If this is your initial geologist license, in WAC 308-15-050; and

(b) ~~((Reciprocity))~~ If you are licensed in another jurisdiction, in WAC 308-15-060.

(2) Complete the board's official application form, and submit ~~((your application according to the directions in the geologist application packet, which is available on the geologist web site and upon request from the board office))~~ it to the board office with the nonrefundable application fee.

(3) Verify you meet minimum educational requirements by having your official sealed transcripts sent directly to the board office from your college or university. Official sealed transcripts from schools outside the United States or Canada must be evaluated by a board-approved evaluation service. The evaluation service must send the original evaluation and a copy of the transcripts directly to the board office.

(4) ~~((Solicit))~~ Obtain personal references and verifications of experience in the format and on the forms specified in the application instructions. Verifications must be sent to the board directly from the ~~((originating source))~~ verifier.

(5) If ~~((applying for a license by reciprocity, solicit))~~ you are already licensed in another jurisdiction, obtain verification of your current license or certification and your examination scores on the form provided ~~((in the application packet))~~ by the board. Verification must be sent directly to the board from the issuing jurisdiction.

(6) If you are applying for a specialty license, submit ~~((a))~~ an applicable project list on the forms provided ~~((in the application packet))~~ by the board to show you meet the minimum requirements of the professional specialty practice ~~((of a character satisfactory))~~ to the satisfaction of the board.

(7) If requested by the board, submit one or more reports you ~~((contributed to or solely prepared))~~ signed and stamped.

(8) If you are applying for a license by examination, your complete application, as described in subsection (9) of this section, must be received by the board at least ninety calendar days before the date of the examination.

(9) An application is not complete and will not be considered until all of the following are received by the board:

(a) Application, signed and dated, and without omissions;

(b) Application fee and, if applying for a specialty by examination, the examination fee specified in WAC 308-15-150;

(c) Official sealed transcripts sent directly from ~~((the))~~ your college(s) or ~~((universities))~~ university;

(d) Personal references sent directly from the ~~((originators))~~ reference source;

(e) Verification of experience sent directly ~~((from))~~ by the verifiers;

(f) If ~~((applying by reciprocity))~~ you are already a licensed geologist in another jurisdiction, verification of ~~((exam))~~ examination scores and license or certification in another jurisdiction;

(g) If you are applying for a specialty license, your applicable project list; and

(h) Other documentation as requested by the board.

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-040 What are the minimum requirements to be eligible for a geologist license? ~~((You are))~~ An applicant is eligible for a geologist license ((if you submit)) when a complete application ((according to WAC 308-15-030, demonstrating:

~~(1) Personal references. You are of good moral character, as attested to by two references:~~

~~((2))) is acceptable to the board, and demonstrates:~~

~~(1) Education. ((You have graduated from an accredited college or university with:~~

~~((a))) An applicant shall have graduated from a course of study satisfactory to the board as described in (a) of this subsection or satisfy educational equivalents as determined by the board on a case-by-case basis as described in (b) of this subsection:~~

~~(a) Bachelor degree program. An applicant shall have earned a bachelor's degree in geology, engineering geology, hydrogeology ((with at least twenty-four semester/thirty-six quarter hours of upper division geology courses; or~~

~~(b) A degree in a related geological science)), or geological sciences, including successful completion of core classes approved by the board; or have a related bachelor's degree as approved by the board, ((and have either:~~

~~(i) Successfully completed classes in structural geology, mineralogy, petrology and sedimentary geology/stratigraphy. Twenty-four semester/thirty-six quarter hours must be upper division geology courses; or~~

~~((ii) Successfully completed)) which includes successful completion of coursework that is determined by the board to be educationally equivalent in content and rigor to ((the classes listed above. You must submit documentation that demonstrates your coursework is equivalent to the requirements in (b)(i) of this subsection acceptable to the board. Examples of documentation include course syllabi, copies of study materials, and the tables of contents of books used in the course.~~

~~((3))) that of a geological sciences degree program.~~

~~(b) Educational equivalency: The board may review and approve unique combinations of educational equivalents to a bachelor's degree. This may include advanced study pertinent to geology, nonmatriculated coursework, practical seminars, and/or on-the-job training acceptable to the board.~~

~~(2) Experience. ((You)) An applicant must have at least five years of ((professional geological)) geologic experience satisfactory to the board after completing the educational requirements in subsection ((2))) (1) of this section. ((Experience earned prior to meeting the minimum educational requirements will not be considered.)) At least three years of geological experience must be obtained under the supervision of state-licensed geologists or others who, in the opinion of the board, are qualified to have responsible charge, or have been in responsible charge, of the applicant's geologic work. The following may be considered qualifying experience:~~

~~(a) ((Geological)) Geologic research or teaching at the university or college level, which, in the judgment of the board, is comparable to experience obtained in the practice of geology; ((and))~~

~~(b) Up to two ((years')) years of credit for full-time graduate study in geology, engineering geology, hydrogeology or one of the related geological sciences approved by the board((-~~

~~(4))) and~~

~~(c) Applicants with military training or experience will be evaluated by the board on a case-by-case basis to determine if the experience or training meets the licensing requirements.~~

~~(3) Examination. ((You)) An applicant must have passed the ASBOG Fundamentals of Geology and the ASBOG Practice of Geology examinations ((according to WAC 308-15-050,)) or another examination acceptable to the board.~~

AMENDATORY SECTION (Amending WSR 06-04-022, filed 1/23/06, effective 2/23/06)

WAC 308-15-050 What is the examination process to be licensed as a geologist? You must ~~((take))~~ sit for and pass the ASBOG examinations~~(((- The examination currently))~~ which consists of two parts: Fundamentals of Geology and Practice of Geology. ((Each part of the examination is four hours long. Information on the examination is available on the ASBOG web site.))

~~(1) Applying for the examination: You may ((either))~~ apply to sit for each section separately or for all sections simultaneously:

~~(a)(i) Apply to ((take)) sit for the Fundamentals of Geology ((exam after)) examination once you meet the minimum educational requirements ((for licensure, and the Practice of Geology exam after you meet the experience requirements outlined)) established in WAC 308-15-040.~~

~~((ii)) (ii) To apply to ((take)) sit for only the Fundamentals of Geology ((exam, you must)) examination, provide the board with ((an)) a completed application((- a certified)), an official copy of your transcripts, ((sent directly from your college or university,)) showing you meet the educational requirements, and the application fee listed in WAC 308-15-150. You do not need to submit employment and experience verification forms or personal references. Once you pass the Fundamentals of Geology examination, you will be enrolled as a geologist-in-training.~~

~~((ii) After you meet the minimum experience requirements, you may apply for the Practice of Geology examination by submitting the remaining application documents and application fee; or))~~

~~(b)(i) Apply to sit for the Practice of Geology examination once you meet the experience requirements established in WAC 308-15-040.~~

~~(ii) To apply to sit for only the Practice of Geology examination, provide the board completed experience verification forms showing you meet the requirements of WAC 308-15-040. These will be added to the application materials and fee you submitted to sit for the Fundamentals of Geology examination.~~

~~(c) Apply to ((take)) sit for both parts of the ASBOG examination ((after)) once you meet all ((other)) licensure requirements outlined in WAC 308-15-040, by submitting a completed license application packet and application fee. A~~

completed application packet must include official transcripts and experience verification forms.

(2) **Fees:** You must submit the application fee with your application prior to the application deadline. Fees are listed in WAC 308-15-150. Following approval of your application you must submit your examination fees directly to ASBOG prior to the deadline specified by ASBOG.

(3) **Special accommodations:** If you ~~((have a disability))~~ need special accommodations, the board will provide accommodations consistent with the Americans with Disabilities Act. You must request special accommodations at least ninety days before the examination date.

(4) ~~((Notification of scoring: The board will notify you by mail of your examination score within ninety days of taking the examination.~~

~~((5))~~ **Failing the examination:** You may apply ~~((to retake the examination))~~ for reexamination by submitting a written request and the administrative fee for reexamination specified in WAC 308-15-150. Once you have been approved for reexamination, you must submit the examination fee directly to ASBOG by the deadline specified by ASBOG.

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-053 What are the specialty licenses? The types of specialty licenses are engineering geologist and hydrogeologist.

(1) **Engineering geologist.**

(a) **Elements of the engineering geologist specialty practice.** The practice of engineering geology involves the interpretation, evaluation, analysis, and application of geological information and data ~~((to civil works.)), as follows:~~ Geotechnical soil and rock units are designated, characterized, and classified, using standard engineering soil and rock classification systems. ~~((Relationships))~~ Site characteristics are interpreted ~~((between landform development))~~ based on surface landforms, current and past geologic processes, ~~((ground and surface water, and))~~ the distribution and strength characteristics of soil and rock ~~((Processes evaluated include both surficial processes (for example, slope, fluvial, and coastal processes), and deep-seated processes (for example, volcanic activity and seismicity))), and ground and surface water.~~ Geotechnical zones ~~((or)), domains or layers~~ are designated based on soil and rock strength characteristics, common landforms, related geologic processes, or other pertinent factors. Proposed ~~((developmental))~~ land development or modification ~~((s are))~~ is evaluated and, where appropriate, analyzed to ~~((predict potential or likely changes in types and rates of surficial geologic processes))~~ estimate the likely behavior of soil and rock under static and dynamic conditions. Proposed modifications may include such things as vegetation removal, using various types of ~~((earth))~~ materials in construction, applying loads to shallow or deep foundations, constructing cut or fill slopes and other grading, and modifying ground and surface water flow. The effects of surficial and deep-seated geologic processes are evaluated and analyzed to ~~((predict their))~~ estimate the potential effect on public health, public safety, land use, or proposed development.

(b) **Typical engineering geologic applications and types of projects.** Engineering geology is applied ~~((during all project phases,))~~ from conception through planning, design, construction, maintenance, and, in some cases, reclamation and closure. Planning-level engineering geologic work is commonly conducted in response to forest practice regulations, critical areas ordinances, and the State Environmental Policy Act. Typical planning-level engineering geologic applications include timber harvest planning, proposed location of residential and commercial developments and other buildings and facilities, and alternative route selection for roads, rail lines, trails, and utilities. Site-specific engineering geologic applications may include, for example, evaluation of and recommendations for cuts, fills, and tunnels for roads, trails, railroads, and utility lines; foundations for bridges and other ~~((drainage))~~ structures, retaining walls and shoring, dams, buildings, water towers, slope stability evaluation and stabilization, channel and shoreline stabilization ~~((facilities; fish ladders and hatcheries; ski lifts and other structures; landings for logging and other work platforms; airport landing strips)), and other structures; rock bolt systems; rockfall protection systems; blasting; and other major earthwork projects such as for aggregate sources and landfills.~~

(2) **Hydrogeologist.**

(a) **Elements of the hydrogeologist specialty.** ~~((In addition to tasks commonly performed by licensed geologists,))~~ The hydrogeologist license is a specialty license that requires having a geologist license. The practice of hydrogeology involves the study, interpretation, and application of the movement of water and other fluids through geologic materials, the mechanical, physical, chemical, and thermal interaction of fluids with geologic materials, and the transport of energy and chemical constituents by fluids in the subsurface.

(b) **Typical hydrogeologic applications and types of projects.** Typical applications include regional or basin groundwater resource, quantity and quality, characterization, development and protection of groundwater resources, subsurface characterization; design of vadose and saturated zone environmental cleanups; design, chemical testing, and construction supervision of test, production, recharge, injection, remediation, dewatering and resource protection wells; fluid flow and transport modeling; dewatering system design; and evaluation of potential impacts caused by past, current, or future activities on the quantity and quality of groundwater and soil gas, and the range of potential mitigations.

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-055 What are the minimum requirements to be eligible for an engineering geologist specialty license? You ~~((are))~~ must meet the following requirements to be eligible for an engineering geologist license ~~((if you submit a complete application according to WAC 308-15-030, demonstrating)):~~

(1) You hold a current Washington state geologist license; and

(2) You have ~~((demonstrated))~~ knowledge of the engineering geology of Washington state; and

(3) You have completed and passed the requirements of advanced study pertinent to engineering geology and acceptable to the board as follows:

(a) Eighteen semester(~~(/)~~) or twenty-seven quarter credit hours of graded academic coursework; or

(b) Two hundred seventy hours of qualifying seminars or workshops, as acceptable to the board; or

(c) Five hundred forty hours of on-the-job training under the supervision of state-licensed engineering geologists or others who, in the opinion of the board, are qualified to have responsible charge of engineering geologic projects; or

(d) (~~(A)~~) Any combination of (a), (b), and/or (c) of this subsection, as acceptable to the board; and

(4) You have five years of professional engineering geology experience after (~~(completion of)~~) completing and passing the advanced study requirements specified in subsection (3) of this section. At least three years of engineering (~~(geological)~~) geology experience must be obtained under the supervision of Washington state-licensed engineering geologists or others who, in the opinion of the board, are qualified to have responsible charge of engineering (~~(geologic)~~) geology projects. The following may be considered qualifying engineering (~~(geologic)~~) geology experience:

(a) Engineering (~~(geological)~~) geology research or teaching at the university or college level, which, in the judgment of the board, is comparable to experience obtained in the practice of engineering geology; and

(b) Up to two years' credit for full-time graduate study in engineering geology or a curriculum containing equivalent academic content approved by the board; and

(5) You have passed the Washington state engineering geologist specialty examination or (~~(an)~~) another examination acceptable to the board.

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-057 What are the minimum requirements to be eligible for a hydrogeologist specialty license? You are eligible for a hydrogeologist license if you submit (~~(a complete)~~) an application (~~(according)~~) to the board, completed in accordance with WAC 308-15-030, (~~(demonstrating)~~) which demonstrates that:

(1) You hold a current Washington state geologist license; and

(2) You have demonstrated knowledge of the hydrogeology of Washington state; and

(3) You have completed and passed the requirements of advanced study pertinent to hydrogeology and acceptable to the board, as follows:

(a) Eighteen semester(~~(/)~~) or twenty-seven quarter credit hours of graded academic coursework; or

(b) Two hundred seventy hours of seminars or workshops, as acceptable to the board; or

(c) Five hundred forty hours of on-the-job training under the supervision of state-licensed hydrogeologists or others who, in the opinion of the board, are qualified to have responsible charge of hydrogeologic projects; or

(d) A combination of (a), (b), and (c) of this subsection; and

(4) You have five years of professional hydrogeology experience after (~~(completion of)~~) completing and passing the advanced study requirements specified in subsection (3) of this section. At least three years of (~~(hydrogeologic)~~) hydrogeology experience must be obtained under the supervision of Washington state-licensed hydrogeologists or others who, in the opinion of the board, are qualified to have responsible charge of (~~(hydrogeologic)~~) hydrogeology projects. The following may be considered qualifying (~~(hydrogeologic)~~) hydrogeology experience:

(a) (~~(Hydrogeologic)~~) Hydrogeology research or teaching at the university or college level, which, in the judgment of the board, is comparable to experience obtained in the practice of hydrogeology; and

(b) Up to two years' credit for full-time graduate study in hydrogeology or a curriculum containing equivalent academic content approved by the board; and

(5) You have passed the Washington state hydrogeology specialty examination or (~~(an)~~) another examination acceptable to the board.

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-060 What (~~(are the minimum requirements for obtaining a geologist or specialty))~~ qualifications must I meet to obtain a Washington state geologist license by reciprocity if I am already licensed in another jurisdiction? You are eligible for a geologist or specialty license by reciprocity if you submit a (~~(complete application according to WAC 308-15-030, demonstrating:~~

(~~(1))~~) geologist and/or specialty license and examination application to the board which demonstrates:

(1) You hold an active geologist license in good standing in a jurisdiction recognized by the board;

(2) You meet the education and experience requirements in WAC 308-15-040 and, if applying for a specialty geologist license, the experience requirements in WAC 308-15-055 or 308-15-057(;

(~~(2))~~) You hold a current geologist, and if applicable, a specialty geologist license, registration, or certification in good standing, issued by a state or jurisdiction approved by the board); and

(3) You have passed the ASBOG Fundamentals of Geology and ASBOG Practice of Geology examinations or an equivalent examination acceptable to the board. If you are applying for a specialty geologist license, you must also verify that you have passed a specialty geologist examination adopted by or acceptable to the board, or take the Washington state specialty geologist examination.

NEW SECTION

WAC 308-15-065 What happens if I do not complete my application? (1) If you fail to complete the licensing process and the board's records show no application activity for five consecutive years, the board will consider your application abandoned. No application activity includes, but is not limited to, failure to submit the required documents within five consecutive years from the receipt of the most recent information submitted.

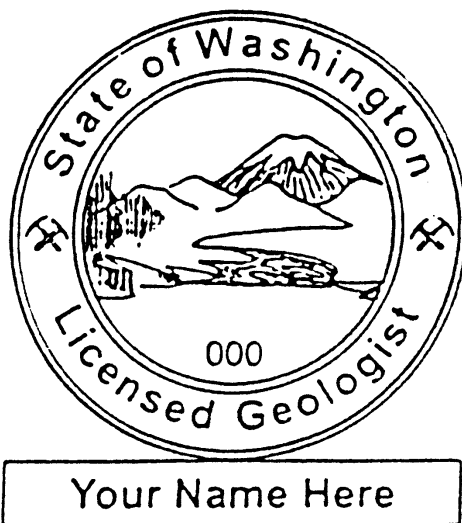
(2) Your application will be considered abandoned if you fail to provide the board with written communication during five consecutive years indicating you are attempting to complete the licensing process.

(3) Once the board considers your application abandoned, your application will be destroyed, in accordance with the board's record retention schedule in effect at the time. You will then be required to reapply for licensure, and comply with the licensing requirements in effect at the time of reapplication.

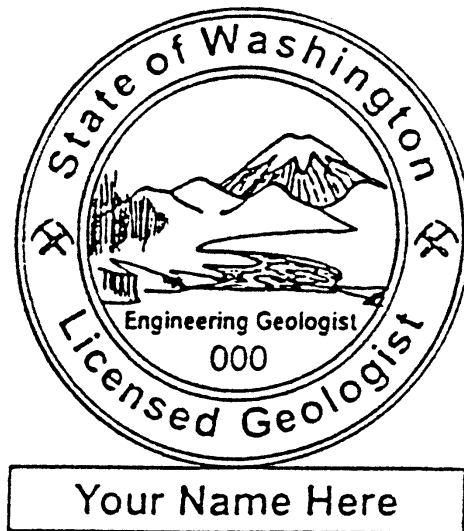
AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-070 Do I need a seal? Upon licensure, you must obtain a seal bearing your name, license number, and the legend "State of Washington Licensed Geologist." If you are licensed as an engineering geologist or hydrogeologist, the specialty must be noted on the seal. Seals may be ~~((rubber, embossed,))~~ physically or digitally produced. Facsimiles of the seal designs authorized by the director are shown ~~((below))~~ in this section. Deviations to the authorized seal designs are not allowed.

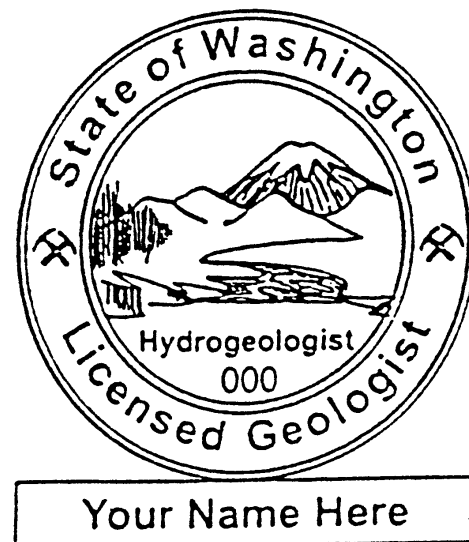
Geologist stamp here



Engineering geologist stamp here



Hydrogeologist stamp here



AMENDATORY SECTION (Amending WSR 07-13-038, filed 6/13/07, effective 7/14/07)

WAC 308-15-075 When do I need to ~~((use))~~ apply my stamp/seal? (1) You must apply your stamp/seal, ~~((sign))~~ signature, and the date on every final geology or specialty geology ~~((report, letter report, or document that is))~~ work product prepared by you or ~~((prepared))~~ under your supervision or direction, and submitted to other parties, as part of the public practice of geology.

(a) All figures, maps, and plates bound within final reports or documents do not need to be individually stamped/sealed, signed and dated. You must individually stamp, sign, and date unbound final figures, maps, and plates ~~((must be individually stamped/sealed, signed and dated))~~.

(b) Draft geology or specialty geology work ~~((does))~~ products do not have to be stamped/sealed, but ~~((the))~~ these

types of documents and ~~((all))~~ associated figures, maps, and plates must be ~~((clearly))~~ marked as draft.

~~(2) ((You must stamp/seal, sign, and date every final geology or specialty geology design and specification that is prepared by you or prepared under your supervision or direction. Draft geology or specialty geology design and specification drawings do not have to be stamped/sealed, but each design and specification must be clearly marked as draft.~~

~~(3)) If you stamp~~((/seal))~~, sign and date a work ~~((performed by someone other than yourself))~~ product prepared by another geologist, you are responsible to the same extent, as if you prepared ~~((the report, design or specification))~~ that work product yourself.~~

(3) The terms "signature" or "signed" as used in chapter 18.220 RCW and this chapter, mean the following:

(a) A handwritten identification or a digital representation of your handwritten identification that represents the act of putting your name on a document to attest to its validity. The handwritten or digital identification must be:

(i) Original and written by hand, or a scanned image of an original, handwritten identification;

(ii) Permanently affixed to the document(s) being certified;

(iii) Applied to the document by the identified licensee;

(iv) Placed across the seal/stamp of the licensee.

(b) A digital identification is an electronic authentication process attached to or logically associated with an electronic document. The digital identification may include a scanned or digitized signature. The digital identification must be:

(i) Unique to the licensee using it;

(ii) Capable of independent verification;

(iii) Under the exclusive control of the licensee using it;

and

(iv) Linked to a document in such a manner that the digital identification is invalidated if any data in the document are changed. Final work products prepared pursuant to regulatory compliance shall be stamped consistent with this section and are not considered exemptions under RCW 18.220.-190(4).

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-080 ~~((What))~~ How do I ~~((need to know about renewing or reinstating))~~ renew my license? ~~((+))~~ **Term of license:** Your license will be issued for a) The renewal period ~~((of))~~ is one year. Your license renewal date is your birthday. You must notify the department in writing of any address changes.

~~((2))~~ **Initial license:** Your first license will expire on your next birthday unless your next birthday falls ninety days or less after the issuance date, in which case your first license will expire on the second birthday following the issuance date.

~~(3)~~ **Renewal date:** Your license renewal date is your birthday.

~~(4)~~ **Timely renewal:** It is your responsibility) You are responsible to make a timely renewal whether or not you receive a renewal notice from the department. ~~((Your renewal is considered timely if you:~~

~~(a) Send the renewal fee to the department on or before your renewal date, as evidenced by the postmark;~~

~~(b) Deliver the renewal fee to the department before the close of business on your renewal date; or~~

~~(c) Renew your license over the internet on or before your renewal date.~~

~~(5) Invalid license:~~ If you fail to renew your license ~~((according to subsection (4) of this section))~~, your license is invalid. If your license is invalid, you are prohibited from offering and/or providing professional geologist services until ~~((the))~~ your license is renewed or reinstated.

~~((6) Late fee:~~ If you fail to pay your renewal fee within ninety days ~~((following))~~ after your renewal date, you must pay the renewal fee plus a late fee equal to one year's renewal fee at the current rate.

~~((7) Reinstatement:~~ If you fail to renew your license for a period of five years or more, you may be reinstated upon payment of the current year's renewal fee and a late fee equal to one year's renewal fee at the current rate. In addition to the payment of fees, you must submit the following:

~~((a))~~ (1) A signed statement that you are knowledgeable ~~((with))~~ about the current laws and rules governing geologists in Washington state;

~~((b))~~ (2) A professional resume of your geologist activities during the delinquent period, including licensure in another jurisdiction, with sufficient detail to demonstrate to the board that you have maintained your professional geologist skills; and

~~((c))~~ (3) A detailed explanation of the circumstances surrounding the reason you allowed your license to expire.

NEW SECTION

WAC 308-15-083 How do I obtain retired status? If you are a licensed geologist, you may be eligible to obtain retired status if you are at least sixty-five years of age and have discontinued active professional practice. If granted retired status, your ongoing licensing renewal fees are waived.

(1) To obtain retired status, submit a written request to the board. If the board determines you are eligible, the retired status would become effective on the first scheduled license renewal date that occurs on or after you reach age sixty-five. You do not need to renew an expired license to be eligible for this status. The board will not provide refund of renewal fees if the application for retired status is made and granted before the expiration date of the license.

(2) **Privileges.** In addition to the waiver of the renewal fee, as a licensee in retired status, you are permitted to:

(a) Retain the board-issued wall certificate of licensure.

(b) Use the title "geologist," provided you also use the term "retired," the abbreviation "ret," "emeritus geologist," or similar language in written or verbal communications to indicate you are no longer in active practice.

(c) Provide experience verifications and references for individuals seeking licensure under chapter 18.220 RCW.

(d) Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to geologic work you performed before you were granted retired status.

(e) Serve in a professional capacity as a "good Samaritan," as set forth in RCW 38.52.195 and 38.52.1951, provided said work is otherwise performed in accordance with chapter 18.220 RCW.

(3) **Restrictions.** As a retired licensee, you are not permitted to:

(a) Perform any professional geology work, as provided for in chapter 18.220 RCW, unless said activity is under the direct supervision of a Washington state licensed geologist;

(b) Apply your professional seal, as provided for in RCW 18.220.090 to a professional geologic work product.

(4) **Certificate of licensure reinstatement.** As a retired status licensee, you may resume active geologist practice upon written request to the board and payment of the current renewal fee. If approved, your license will be returned to active status by the board, and all rights and responsibilities of an active license status will be in effect. At the date of expiration of the reinstated license, you may choose to either continue active licensure or may again apply for retired status, in accordance with the provisions of this chapter.

(5) **Exemptions.** Under no circumstances shall you be eligible for retired status if your license has been revoked, surrendered, or suspended by the board under chapter 18.220 RCW. If you have been suspended from geologic practice or are subject to terms of a board order at the time you reach age sixty-five, you shall not be eligible for retired status until such time that the board has removed the restricting conditions.

NEW SECTION

WAC 308-15-085 How do I withdraw from active practice? You can withdraw from active practice by requesting in writing your license be placed on either inactive or retired status. Your license must be in good standing before you can request it be placed in inactive status. See WAC 308-15-083 for information about obtaining retired status.

Under inactive status, you are not permitted to perform any professional geology work, as provided for in chapter 18.220 RCW, unless said activity is under the direct supervision of a Washington state licensed geologist who has an active license in the records of the board.

NEW SECTION

WAC 308-15-087 How do I reactivate my inactive license? (1) If you are returning to active status from less than five years of inactive status, submit to the board:

(a) A letter of application requesting reactivation of your license; and

(b) The current renewal fee.

(2) If you are returning to active status after five years of inactive status, submit to the board:

(a) A letter of application requesting reinstatement; and

(b) The current renewal fee plus the late penalty fee.

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-103 How are brief adjudicative proceedings (BAPs) conducted? (1) A brief adjudicative pro-

ceeding is an alternative to a formal hearing. You will not be required to testify or be present during the proceeding. A decision on your case will be made based upon review of documents only.

(2) The proceeding will be conducted by a presiding officer, designated by the board, ((conducts brief adjudicative proceedings. The presiding officer)) who is objective and will not have personally participated in ((the)) any decision to issue the initiating document.

((2) The parties or their representatives)) (3) You may present any written documentation that you believe supports your case as well as a statement or brief addressing why you believe your position in the case is correct. The presiding officer will designate the date by which written documents must be submitted by the parties.

((3) The presiding officer may, at the presiding officer's discretion, entertain oral argument from the parties or their representatives.))

(4) No witnesses may appear to testify.

(5) ((In addition to the record, the presiding officer may employ board expertise as a basis for a decision.

((6)) The presiding officer will ((not issue an oral order.)) issue a written initial order within ten days of the ((final)) date for submission of materials ((or oral argument, if any, the presiding officer will enter an initial order)). That initial decision will contain instructions on how you may appeal the decision if you choose.

AMENDATORY SECTION (Amending WSR 18-21-028, filed 10/5/18, effective 11/5/18)

WAC 308-15-105 When can a brief adjudicative proceeding((s)) be used instead of a formal hearing? (1) The board will conduct brief adjudicative proceedings as provided for in RCW 34.05.482 through 34.05.494 of the Administrative Procedure Act. ((Brief adjudicative proceedings may be used whenever a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of chapters 18.220 and 18.235 RCW, administrative rules in Title 308 WAC or any statutes or rules that specifically govern the defined practices of geologists. Brief adjudicative proceedings may also be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act.))

(2) Brief adjudicative proceedings may be used to determine the following issues ((including, but not limited to)):

(a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;

(b) Whether an applicant is eligible to sit for a professional licensing examination;

(c) ((Whether a sanction proposed by the board is appropriate based on the stipulated facts;

((d))) Whether an applicant meets minimum requirements for an initial or renewal application;

~~((e))~~ (d) Whether an applicant has failed the professional licensing examination;

~~((f))~~ (e) Whether an applicant or licensee failed to cooperate in an investigation by the board;

~~((g))~~ (f) Whether an applicant or licensee was convicted of a crime that disqualifies the applicant or licensee from holding the specific license sought or held;

~~((h))~~ (g) Whether an applicant or licensee has violated the terms of a final order issued by the board or the board's designee;

~~((i))~~ (h) Whether ~~((a person))~~ an individual has engaged in false, deceptive, or misleading advertising; or

~~((j))~~ (i) Whether ~~((a person))~~ an individual has engaged in unlicensed practice.

~~((3))~~ In addition to the situations enumerated in subsection (2) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

AMENDATORY SECTION (Amending WSR 05-01-174, filed 12/21/04, effective 1/21/05)

WAC 308-15-140 What are the rules of professional conduct? These rules of professional conduct are applicable to all individuals that have been issued a license as a geologist or specialty geologist in accordance with chapter 18.220 RCW.

(1) **What are the general responsibilities of a geologist?**

(a) A geologist must undertake professional service or render expert opinion only when qualified by training or experience in the technical areas involved.

(b) When serving as an expert or technical witness before a court, commission, or other tribunal, a geologist must express only those opinions founded upon adequate professional knowledge of the matters at issue.

(c) A geologist must stamp, sign and ((stamp/seal)) date only professional work ~~((;))~~ products prepared in the public practice of geology including, but not limited to, maps and reports for which the geologist has direct professional knowledge, and for which the geologist is in responsible charge.

(d) A geologist must not take credit for work conducted by others. When using the results of other geologists' work in the performance of the public practice of geology, a geologist must give due credit to the other geologists by citation or ~~((acknowledgement))~~ acknowledgment.

(e) A geologist must not make false statements or misrepresentations, or permit the publication or use of ~~((the))~~ another geologist's name or geological work in association with ~~((any))~~ fraudulent activities.

(f) A geologist must make full disclosure to ~~((all parties concerned of any))~~ identified affected parties of conflict of interest in projects or properties ((on)) for which the geologist performs geological work.

(g) If a ~~((geologist's))~~ geologist is consulted and renders a professional ~~((judgment))~~ opinion which is overruled or ~~((not adhered to under circumstances where))~~ ignored, the

geologist has ~~((reasonable cause to believe there is an))~~ a duty to inform the affected party where there is present or imminent threat to the public health, welfare, or property((;)). The geologist must immediately notify the client~~((;))~~ or employer ~~((of the))~~ and document their best efforts to explain possible consequences. If the client~~((;))~~ or employer does not take action in a period of time consistent with the level of danger, the geologist must use best efforts to notify the apparent appropriate regulatory agency.

(h) A geologist must issue no statements, criticisms, or arguments on geological matters ~~((that are))~~ inspired or paid for by interested parties, unless the geologist indicates on whose behalf the statements are made.

(i) A geologist ~~((must))~~ should continue ~~((the geologist's))~~ professional development throughout ((the geologist's)) their career, and ((must)) should also provide opportunities for the professional development of ((those individuals under the geologist's)) others practicing under their supervision.

(2) **What are the specific responsibilities of a geologist to ~~((an employer or))~~ a client or employer?**

(a) A geologist must avoid conflicts of interest with a client~~((;))~~ or employer and must disclose the circumstances to the client~~((;))~~ or employer if a conflict is unavoidable.

(b) A geologist must not, during the time of the geologist's retention or employment by a client~~((;))~~ or employer, use information developed for, or the resources of, said client~~((;))~~ or employer for private gain or in any other manner that may conflict with the ~~((client's))~~ client's or employer's interest without the knowledge and consent of the client~~((;))~~ or employer, except as specified in subsection (1)(h) of this section. In the case of former clients~~((;))~~ or employers, a geologist must honor agreements with former clients~~((;))~~ or employers with regard to proprietary information, except as specified by subsection (1)(h) of this section.

(c) A geologist must either engage or advise a client~~((;))~~ or employer to engage other experts or specialists if the ~~((client's))~~ client's or employer's interests are best served by such service.

(d) A geologist has the right to withdraw from service without due notice if:

(i) The geologist knows or has reason to think that the client or employer is involved in illegal or fraudulent practices, or practices dangerous to the public welfare.

(ii) The geologist knows or has reason to think that the continued employment will result in illness or injury to the geologist or the geologist's dependents.

(e) A geologist must not accept compensation concurrently from more than one client~~((;))~~ or employer for the same work on a project, unless the circumstances of payment are fully disclosed and agreed to by all financially interested parties.

~~((e))~~ (f) A geologist must advise the geologist's clients or employers ((or clients)) when, as a result of ~~((their studies))~~ the geological work, the geologist ~~((believes))~~ considers a project will not be viable.

~~((f))~~ (g) A geologist must negotiate contracts for professional services fairly and on the basis of demonstrated competence and qualifications for the type of professional service required.

~~((g))~~ (h) A geologist must not request, propose or accept professional compensation on a contingent basis under circumstances in which the geologist's professional judgment or ethics may be compromised.

(3) What are the specific responsibilities of a geologist to the board?

(a) A geologist must respond to formal requests of the board within the time frame and in the manner specified by the board in its request.

(b) A geologist~~((s))~~, when requested by the board, must present information and assistance to the board in pursuing violations of laws and rules relating to the public practice of geology in ~~((the state of))~~ Washington state.

(c) If a geologist has knowledge or reasonable cause to ~~((believe another person or))~~ think an individual or another geologist is in violation of the ~~((licensing law,))~~ laws governing the license or practice of geology contained in chapter 18.220 RCW, RCW 18.220.130, 18.235.130 or the related administrative rules, the geologist must present such information in writing to the board.

~~((4))~~ **What are prohibited acts?** The prohibited acts are found in RCW 18.220.130, 18.220.170 and 18.235.130.)

AMENDATORY SECTION (Amending WSR 16-12-091, filed 5/31/16, effective 7/1/16)

WAC 308-15-150 Fees. ~~((1))~~ **Suspension of fees.** Effective July 1, 2016, a portion of the listed fees shown in subsection (2) of this section are temporarily suspended and replaced with the following:

Renewal Fees

Annual renewal fee for geologist	\$40.00
Annual renewal for each specialty	\$50.00
Annual renewal for geologist, with late fee (if paid ninety days or more after due date)	\$80.00
Annual renewal fee for each specialty, with late fee (if paid ninety days or more after due date)	\$100.00

The fees set forth in this section shall revert back to the fee amounts shown in WAC 308-15-150 on July 1, 2017.

(2)) Fees.

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

Type of Fee	Amount
Examination fees	
((Fees for the fundamentals of geology and practice of geology examinations are submitted directly to ASBOG))	
Administration fee for reexamination	\$65.00
Specialty examination (hydrogeologist or engineering geologist ((exam)) <u>examination</u>)	\$300.00
Renewal fees	
Annual renewal fee for geologist	\$100.00
Annual renewal fee for each specialty	\$85.00
Annual renewal for geologist, with late fee (if paid ninety days or more after due date)	\$200.00
Annual renewal for each specialty, with late fee (if paid ninety days or more after due date)	\$170.00
Miscellaneous fees	
Duplicate ((license or)) wall certificate.	\$25.00
Certification of license records to other jurisdictions.	\$45.00
Proctor examination for another jurisdiction	\$100.00
<u>In addition to applicable state examination fees, ASBOG may collect, from the applicants, the charges of examination development, examination administration and grading. Terms and conditions for payment of the charges to ASBOG are determined by ASBOG.</u>	
AMENDATORY SECTION (Amending WSR 07-13-038, filed 6/13/07, effective 7/14/07)	
WAC 308-15-160 What are the board member rules of conduct ((Activities incompatible with public duties—Financial interests in transactions.)) <u>(1) When a board member ((of the board)) either owns a beneficial interest in or is an officer, agent, employee, or member of an entity ((or individual that is)) engaged in ((a transaction involving the)) activity that is subject to a board action, the board member shall((:</u>	
((a) Recuse him or herself from the board discussion regarding the specific transaction;	
((b) Recuse him or herself from the board vote on the specific transaction; and	
((c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific transaction.	
((2) The prohibition against discussion and voting set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.	

(3)(a) "Transaction involving the board" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the member in question believes, or has reason to believe:

- (i) Is, or will be, the subject of board action; or
- (ii) Is one to which the board is or will be a party; or
- (iii) Is one in which the board has a direct and substantial proprietary interest.

(b) "Transaction involving the board" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the board that is the basis for the claim, case, or lawsuit. Rule making is not a "transaction involving the board.") state such involvement and be recused from board contact and participation related to that board action, except that the board member may provide information and appear as a fact witness in that action.

(2) When a board member has a business relationship with a respondent who is subject to a board action, the board member shall notify the board and board staff of that relationship. The board member shall either state that the nature of the relationship is such that it will not affect the board member's impartiality and the member will continue to participate in the action or the board member shall announce their recusal from the board action.

(3) Board staff will make a written notation for the case file of any statement by a board member regarding a business relationship with the respondent and the basis for recusal or continuing participation in the board action.

(4) "Board action" means any action on the part of the board, including, but not limited to:

(a) ~~((A))~~ An investigation, discussion, decision, determination, finding, ruling, ((or)) order or other regulatory activity within the board's jurisdiction; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

~~((5))~~ The following are examples of possible scenarios related to board member rules of conduct. Activities incompatible with public duties; financial interests in transactions:

(a) Example 1:

~~The geologist licensing board disciplines licensed geologists in Washington. The board is conducting an investigation involving the services provided by a licensed geologist. One of the members of the board is currently serving as a subcontractor to that geologist on a large project. The board member must recuse himself from any board investigation, discussion, deliberation and vote with respect to disciplinary actions arising from licensed geologist services.~~

(b) Example 2:

~~The geologist licensing board makes licensing decisions on applications for licensure. An applicant for licensure owns a geotechnical consulting business~~

~~which employs licensed geologists, including one of the board members. The board member employed by the business must recuse himself from any board investigation, discussion, deliberation and vote with respect to his employer's application for licensure.~~

(c) Example 3:

~~The geologist licensing board makes licensing decisions on applications from geologists registered in other states or territories of the United States, the District of Columbia, or other countries. The board can grant licensure if an individual's qualifications and experience are equivalent to the qualifications and experience required of a person licensed under Washington law. An out-of-state applicant is employed as a geologist by a multinational corporation that is planning to build its world headquarters in Washington and has hired a board member's firm as the geologist for the project. The board member must recuse himself from any board investigation, discussion, deliberation and vote with respect to the sufficiency of the out-of-state geologist's qualifications and experience.~~

~~(6) Recusal disclosure. If recusal occurs pursuant to subsection (1) of this section, the member of the board shall disclose to the public the reasons for his or her recusal from any board action whenever recusal occurs. The board staff shall record each recusal and the basis for the recusal.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-15-107 Records required for the brief adjudicative proceeding.

WSR 19-22-047

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed November 1, 2019, 1:10 p.m., effective November 1, 2019]

Effective Date of Rule: November 1, 2019.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: RCW 34.05.380 (3)(a) allows an agency to make rules effective earlier than the thirty-one days when required by law. This rule making implements ESHB 1094, which creates a compassionate care renewal option for qualifying medical marijuana patients. The law requires this renewal option to be operational and available to patients by November 1, 2019.

Purpose: WAC 246-71-010 Definitions, 246-71-020 Adding qualifying patients and designated providers to the database, 246-71-030 Renewing qualifying patients and designated providers in the database, and 246-71-040 Requirements for recognition cards. Adopting amendments to existing rules that will implement the new law, which must be effective November 1, 2019, under ESHB 1094, which estab-

lishes compassionate care renewals for qualifying patients who use marijuana for medical purposes.

Citation of Rules Affected by this Order: Amending WAC 246-71-010, 246-71-020, 246-71-030, and 246-71-040.

Statutory Authority for Adoption: ESHB 1094 (chapter 203, Laws of 2019); RCW 43.70.040.

Adopted under notice filed as WSR 19-16-148 on August 7, 2019.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 1, 2019.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 16-11-086, filed 5/17/16, effective 6/17/16)

WAC 246-71-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper approved by the Washington pharmacy quality assurance commission.

(2) "Compassionate care renewal" means a renewal of an authorization by a health care practitioner through the use of telemedicine if the health care practitioner determines that requiring the qualifying patient to attend an in-person physical examination would likely result in severe hardship to the qualifying patient because of the qualifying patient's physical or emotional condition. A compassionate care renewal of a qualifying patient's registration and recognition card also allows the qualifying patient's designated provider to renew the qualifying patient's registration in the database and recognition card without the qualifying patient being physically present at a retailer and without a new photograph being taken.

(3) "Consultant" means a person who holds a valid medical marijuana consultant certificate issued by the secretary under chapter 246-72 WAC and who is employed by a retail outlet with a medical marijuana endorsement.

((3)) (4) "Credential for access" or "credentials" means information, electronic device, or certificate provided by the department or the department's designee to a data requestor to

electronically access the database. The authentication may include, but is not limited to, a user name, password, or an identification electronic device or certificate.

((4)) (5) "Database" means the medical marijuana authorization database established under RCW 69.51A.230.

((5)) (6) "Department" means the Washington state department of health.

((6)) (7) "Designated provider" has the same meaning as RCW 69.51A.010(4).

((7)) (8) "Dispenser" means a person authorized to dispense controlled substances other than marijuana under chapter 69.50 RCW.

((8)) (9) "Health care practitioner" or "authorizing health care practitioner," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physician's assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

((9)) (10) "Official" means an official of a local, state, tribal, or federal law enforcement or prosecutorial agency.

((10)) (11) "Prescriber" means a person authorized to prescribe or dispense controlled substances other than marijuana under chapter 69.50 RCW.

((11)) (12) "Qualifying patient" or "patient" has the same meaning as RCW 69.51A.010(19).

((12)) (13) "Recognition card" means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered them into the medical marijuana authorization database.

((13)) (14) "Retail outlet with a medical marijuana endorsement" or "endorsed outlet" means a location licensed by the WSLCB under RCW 69.50.325 for the retail sale of usable marijuana and marijuana-infused products to the public, and under RCW 69.50.375 to qualifying patients and designated providers for medical use.

((14)) (15) "Telemedicine" has the same meaning as the definition of that term adopted by the authorizing health care practitioner's disciplining authority, whether defined in rule or policy.

(16) "Valid photographic identification" means:

(a) A driver's license or instruction permit issued by any state of the United States or province of Canada. If the patient's driver's license has expired, the patient must also show a valid temporary driver's license with the expired card.

(b) A state identification card issued by any state of the United States or province of Canada.

(c) An official passport issued by any nation.

(d) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(e) A merchant marine identification card issued by the United States Coast Guard.

(f) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features compara-

ble to those implemented by the department of licensing for Washington drivers' licenses.

A recognition card, whether current or expired, does not qualify as valid photographic identification.

~~((15))~~ (17) "Vendor" means the third-party administrator with whom the department has contracted to operate the database.

~~((16))~~ (18) "WSCLB" means the Washington state liquor and cannabis board.

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

WAC 246-71-020 Adding qualifying patients and designated providers to the database. A qualifying patient or designated provider may take their authorization to an endorsed outlet to be entered into the database.

(1) Only a consultant employed by an endorsed outlet is allowed to enter a qualifying patient's or designated provider's information into the database.

(2) Consultants must register with the department to receive credentials to access the database. The process for registration will be established by the department.

(3) The department shall verify the consultant's identity and certificate status before providing credentials to access the database.

(4) The consultant shall access the database using the credentials issued by the department or the department's designee. If the credentials are lost or missing, or the security of the credentials is compromised, the consultant shall notify the department by telephone and in writing within one business day.

(5) The consultant shall ensure that the authorization form provided is valid, complete, unaltered, and meets all requirements specified in RCW 69.51A.030 and complies with the instructions on the form. "Street address" on the authorization form means the physical address for the person's residence where plants may be grown under RCW 69.51A.210. If any requirement is not met, or the form is altered or incomplete, the person cannot be entered into the database.

(6) The consultant shall verify the identity of every patient age eighteen and older and every designated provider by inspecting the patient's or designated provider's valid photographic identification. Except for patients under the age of eighteen, or qualifying patients renewing under a compassionate care renewal as authorized in RCW 69.51A.030, a person cannot be entered into the database without valid photographic identification.

(7) In the event of an inexact match of names on the identification and the authorization, the consultant shall ensure that the patient or designated provider named on the authorization form is the same person presenting the authorization for entry into the database.

(8) The consultant shall check the database to ensure that a designated provider is not currently associated with a different patient in the database before associating the designated provider with a new patient in the database. If a designated provider is still associated with a different patient, the

consultant cannot enter the designated provider into the database as associated with the new patient.

(9) The consultant shall enter the following information into the database for each patient and designated provider (unless specified below):

(a) The type of valid photographic identification verified and the unique number from the identification;

(b) Full legal name, as it appears on the valid photographic identification, including first name, middle initial, last name, and generational suffixes, if any;

(c) Date of birth;

(d) Actual physical address if different from the address on the identification;

(e) Gender;

(f) Name of the authorizing health care practitioner;

(g) Authorizing health care practitioner's full license number;

(h) Business address of the authorizing health care practitioner;

(i) Telephone number of the authorizing health care practitioner, as listed on the authorization form;

(j) The patient's qualifying condition(s);

(k) For the designated provider only, the patient the designated provider is authorized to assist;

(l) The date the authorization was issued;

(m) The date the authorization expires; and

(n) The number of plants the patient is allowed to grow. If the authorizing health care practitioner does not indicate a specific number, the presumptive number is six plants. The health care practitioner cannot authorize more than fifteen plants. An authorization for more than fifteen plants is invalid.

(10) All requests for, uses of, and disclosures of information from the database by authorized persons must be consistent with chapter 69.51A RCW and this chapter.

AMENDATORY SECTION (Amending WSR 16-11-086, filed 5/17/16, effective 6/17/16)

WAC 246-71-030 Renewing qualifying patients and designated providers in the database. (1) Recognition cards expire on the expiration date indicated on the patient's or designated provider's authorization. To be valid, an authorization must expire no later than:

(a) Twelve months after the date it was issued for patients age eighteen and over;

(b) Twelve months after the date it was issued for designated providers; or

(c) Six months after the date it was issued for patients under the age of eighteen.

(2) To renew a recognition card a patient or designated provider must receive a new authorization following reexamination of the patient by a health care practitioner in-person or as authorized for compassionate care renewals as provided in RCW 69.51A.030. The qualifying patient or designated provider may take their new authorization to an endorsed outlet to be entered into the database.

(3) A qualifying patient's designated provider may renew the patient's registration and recognition card in the medical marijuana authorization database without the physical pres-

ence of the qualifying patient at the retailer if the authorization from the health care practitioner indicates that the qualifying patient qualifies for a compassionate care renewal as provided in RCW 69.51A.030. A qualifying patient receiving renewals under compassionate care renewal provisions is exempt from the requirement for a new photograph for the renewal.

(4) The procedures in WAC 246-71-020 must be used to enter the patient's or designated provider's new authorization into the database.

((4)) (5) The consultant shall ensure that the information required by WAC 246-71-020(9) is updated and accurate at the time of renewal.

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

WAC 246-71-040 Requirements for recognition cards. (1) An endorsed outlet must have the following equipment readily available and maintained in good working order:

- (a) A computer with internet access and capability of running a supported version of a common web browser;
- (b) A digital camera with at least 10 megapixel resolution;
- (c) A standard color printer able to print at least 300 dots per inch;
- (d) A laminator; and
- (e) A solid white, off-white, or light blue backdrop that is free of patterns, objects or textures, to use as the background for each picture.

(2) When issuing a recognition card to a qualifying patient or designated provider, an endorsed outlet must comply with the following requirements:

- (a) Only a consultant employed by the endorsed outlet is allowed to print and create a card;
- (b) The consultant shall take a picture of the face of the patient or designated provider at the same time they are entered into the database following the process specified by the department((3)). Compassionate care renewals will use the qualifying patient's existing photograph and information retained securely in the database to generate a new recognition card for the patient. The endorsed outlet shall not otherwise retain or use the photograph or patient information for any purpose other than:

(i) Entering a qualifying patient or designated provider into the database;

(ii) Issuing a replacement card under WAC 246-71-120;
or

(iii) Issuing a compassionate care renewal.

(c) The consultant shall create, print the card in full color, permanently laminate the card using a heat process, and issue it to the patient or designated provider following the process specified by the department; and

(d) The consultant shall return the authorization to the patient or designated provider. The endorsed outlet shall not retain a copy of the authorization.

(3) The database vendor shall ensure recognition cards contain the following:

- (a) A randomly generated and unique identification number;
- (b) The name of the patient or designated provider;
- (c) For designated providers, the unique identification number of the patient they are assisting;
- (d) A photograph of the patient or designated provider;
- (e) The amounts of marijuana concentrates, usable marijuana, or marijuana-infused products the patient or designated provider is authorized to purchase or obtain at an endorsed outlet;
- (f) The number of plants the patient or designated provider is authorized to grow;
- (g) The effective date and expiration date of the card;
- (h) The name of the health care professional who issued the authorization; and
- (i) Additional security features required by the department to ensure the validity of the card.

WSR 19-22-061

PERMANENT RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 19-275—Filed November 5, 2019, 9:33 a.m., effective December 6, 2019]

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

Purpose: WAC 220-415-080 2019-2020 Spring black bear special permits, the purpose of the amendments are to align the rules with the appropriate season dates, increase permit numbers in areas where needed, open a new hunt area to address needs, and expand and improve upon information and biological samples collected from harvest bears through a pelt check (with evidence of animal sex included).

- Adjusted years for spring black bear special permit hunts beginning April 2020 and ending June 2020. The title will be as follows: WAC 220-415-080 2020 Spring black bear special permits.
- Added language to adjust the numbers of permits offered in:
 - Blue Creek, GMU 154 increased permits from 15 to 18.
 - Dayton, GMU 162 increased permits from 15 to 18.
 - Wenaha, GMU 169 increased permits [from] 45 to 60.
 - Mt. View, GMU 172 increased permits [from] 15 to 24.
 - Lick Creek, GMU 175 increased permits [from] 15 to 18.
- Added a new hunt area: Peola, GMU 178 with 5 permits.
- Remove Kapowsin hunt area.
- Technical edit to list GMU 648 prior to GMU 638 under the Copalis Hunt Area to clarify that GMU 638 is where the U.S. Forest Service lands are excluded.

Added language to include a mandatory reporting of harvest within seventy-two hours of kill and mandatory pelt check, with evidence of sex, for sealing within five days of

notification of kill. This is in addition to the submission of the first premolar.

Citation of Rules Affected by this Order: Amending WAC 220-415-080.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.12.047, and 77.12.240.

Adopted under notice filed as WSR 19-18-050 on August 30, 2019.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: November 5, 2019.

Larry M. Carpenter, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 18-11-061, filed 5/11/18, effective 6/11/18)

WAC 220-415-080 ((2019-2020)) 2020 Spring black bear special permits. It is unlawful to fail to comply with the provisions of this section. A violation of this section is punishable under RCW 77.15.410, 77.15.245, or 77.15.280, depending on the circumstances of the violation.

Who May Apply: Anyone with a valid Washington big game license, which includes black bear as a species option.

Hunt Areas, Permit Levels, and Season Dates for Each License Year:

Hunt Name	Hunt Area	Permits	Season Dates
Sherman	GMU 101 Note: Mandatory bear identification test required.	50	April 1 - June 15
Kelly Hill	GMU 105 Note: Mandatory bear identification test required.	50	April 1 - June 15
Douglas	GMU 108 Note: Mandatory bear identification test required.	40	April 1 - June 15
Aladdin	GMU 111 Note: Mandatory bear identification test required.	50	April 1 - June 15
49 Degrees North	GMU 117 Note: Mandatory bear identification test required.	100	April 1 - June 15
Huckleberry	GMU 121	100	April 1 - June 15
Blue Creek	GMU 154	((45)) 18	April 15 - June 15
Dayton	GMU 162	((45)) 18	April 15 - June 15
Tucannon	GMU 166	5	April 15 - June 15
Wenaha	GMU 169	((45)) 60	April 15 - June 15
Mt. View	GMU 172	((45)) 24	April 15 - June 15
Lick Creek	GMU 175	((45)) 18	April 15 - June 15
Peola	GMU 178	5	April 15 - June 15
Couse	GMU 181	((4)) 5	April 15 - June 15
Grande Ronde	GMU 186	5	April 15 - June 15
Kitsap	GMU 627	5	April 15 - May 31
Mason	GMU 633	5	April 15 - May 31
Bear River	GMU 681	20	April 15 - May 31
Long Beach	GMU 684	12	April 15 - May 31

Hunt Name	Hunt Area	Permits	Season Dates
North Skagit	That portion of GMU 418 that is designated as the hunt area by DNR, Sierra Pacific, Weyerhaeuser-Columbia Timber Lands, and Grandy Lake Timber company. Note: Mandatory bear identification test required.	30	April 15 - June 15
Copalis	GMU 642, ((638)) 648, and ((648)) 638 (excluding U.S. Forest Service lands).	50	April 15 - June 15
((Kapowsin	That portion of GMUs 653 and/or 654 that is designated as the hunt area by Hancock Forest Management, Hampton, and Olympic Resource Management.	150	April 15 - June 15))

Bag Limit: One black bear per black bear special permit season.

License Required: A valid big game hunting license, which includes black bear as a species option, is required to apply for a spring black bear special permit. One black bear transport tag is included with a big game hunting license that has black bear as a species option.

Hunting Method: Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting black bear. The use of dogs or bait to hunt black bear is prohibited statewide.

Other Requirements: Hunters that are selected to hunt in GMUs located in grizzly bear recovery areas, as identified by the department, must successfully complete the annual WDFW online bear identification test with a passing score (80% or higher) or carry proof that they have passed an equivalent test from another state. The WDFW test may be taken repeatedly until a passing score is achieved. All hunters must carry proof of passing a bear identification test while hunting in the GMUs identified by the department.

Harvest Check, Submitting Biological Samples and Bear Teeth: All successful bear hunters must validate (notch) their bear tag, notify the department within 72 hours of kill (excluding legal state holidays), provide the hunter's name, date and location of kill, and sex of animal. The raw pelt, evidence of sex, and the first premolar must be presented to an authorized department employee for sealing within 5 days of notification of kill. All permit hunters must comply with harvest reporting and submission of biological samples ((including the black bear premolar located behind the canine tooth of the upper jaw)) as described above. Failure to comply with the submission of biological samples is a misdemeanor pursuant to RCW 77.15.280.

WSR 19-22-069

PERMANENT RULES

ARTS COMMISSION

[Filed November 5, 2019, 11:37 a.m., effective December 6, 2019]

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

Purpose: Amend WAC 30-02-010 Definitions, to make it clearer on the creative district definition that additional entities as approved may qualify for land area designees.

Citation of Rules Affected by this Order: Amending 1 [WAC 30-02-010].

Statutory Authority for Adoption: RCW 43.46.040.

Adopted under notice filed as WSR 19-20-018 on [September 20, 2019].

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 5, 2019.

Karen Hanan
Executive Director

AMENDATORY SECTION (Amending WSR 19-07-001, filed 3/6/19, effective 4/6/19)

WAC 30-02-010 Definitions. The following definitions shall apply throughout Title 30 WAC:

"Accession" means to formally acquire a work of art for the state art collection, including the action of assigning an accession or control number to the work of art.

"Appeal procedure" means the procedure as established in WAC 30-12-036 (Request for review of denied applications) whereby an applicant may request a review of a denied application.

"Application form" means printed, electronic, or web-based forms created and published by staff and used by the public to apply to commission program applications.

"Application guidelines" means the published document that provides the public with information on how to apply for commission programs, including eligibility requirements, review criteria used to evaluate and score applications, deadlines, timelines, and information on the appeal procedure. Published in print and/or electronic format, guidelines are accessible through the commission's web site.

"Art advisory committee" means a committee formed by staff and a partner agency to develop plans and overall project specifications, and to make funding allocation decisions related to the state art collection.

"Art in public places program" means the visual art program of the commission established by the legislature in RCW 43.46.090 to acquire works of art and to develop, administer, and manage the state art collection.

"Art selection committee" means a committee formed by a partner agency, and approved by staff, to review and select artists to create works of art for the state art collection, or to review and select works of art for or from the state art collection, through a process facilitated by staff.

"Artistic disciplines" means dance, design, folk and traditional arts, media arts, music, literature, theater, visual arts, and interdisciplinary arts.

"Artistic excellence" means evidence of some or all of the following: Mastery of skills and techniques, communication of unique vision or perspective, professional approaches to process and presentation. Additionally, for groups and organizations, includes the contribution the artistic work(s) make to the development of the artists involved, the art form and the arts generally; or for services delivered, the contribution the services make to the development of a vibrant arts and cultural community in the state.

"Arts professional" means an individual who has professional work experience in the arts or an arts-related field.

"Board" means the board of commissioners, consisting of nineteen members appointed by the governor and four members of the legislature appointed to the Washington state arts commission pursuant to RCW 43.46.015.

"Chair" means the chair of the board, elected pursuant to WAC 30-08-050 and fulfilling duties as established in Title 30 WAC.

"Collections management" means the ongoing care, preservation, and maintenance of the state art collection, including activities such as the management of conservation, restoration, deaccession, documentation, inventory, labeling, loans, and resiting of works of art.

"Commission" means the collective entity of the Washington state arts commission, including the board, executive director, and staff.

"Commissioner" means an individual appointed to the board of the Washington state arts commission.

"Conservation" means treatment of malfunctioning or damaged works of art for the purpose of bringing them to a

stable condition so that future routine and special maintenance can be effective. Conservation-related activities may also include examination and documentation.

"Creative district" means a land area designated by a local government or other entity as approved, in accordance with RCW 43.46.105 that contains either a hub of cultural facilities, creative industries, or arts-related businesses, or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.

"Curator" means a qualified visual arts professional with past curatorial experience selected to recommend works of art for acquisition to the state art collection.

"Deaccession" means board action to remove an accessioned work of art from the state art collection.

"Disability" is defined in RCW 49.60.040(7).

"Eligibility requirements" means published standards and/or minimum required qualifications which applicants and/or applications must meet in order for their application to be considered by the panel.

"Executive director" means that person employed pursuant to RCW 43.46.045 to carry out the functions of that chapter and Title 30 WAC.

"Grant" means a contract between the commission and an organization or individual, for arts or cultural services, awarded through a competitive application process and approved or ratified by the board.

"Inventory" means a periodic survey of the physical state and current location of works of art in the state art collection.

"Local government" means a local governing body, city, county, town, municipal county, tribal government, or other entity as approved.

"Nonprofit" means incorporation under the nonprofit laws of the state of Washington or another state, and determination by the Internal Revenue Service (IRS) that the incorporated entity is exempt from taxation under Section 501 (c)(3) of the IRS code.

"Panel" means a group of individuals convened by staff to review applications or nominations using published review criteria, and make recommendations to the board or executive director.

"Partner agency" means a state agency, K-12 public school, university, college, community or technical college, or other public entity working with the art in public places program.

"Pilot program" means a limited scale, flexible program that evaluates administrative needs and costs, adverse and favorable events, and improves upon the design prior to launch of a full program or integration of pilot into an existing program.

"Professional artist" means an individual who has a history of paid work as an artist.

"Public artist roster" means the board approved list of professional artists eligible to create visual works of art for the state art collection.

"Public benefit" means project outcomes that have an impact on a community, including some or all of the following: Broadening access to the arts or expanding and diversifying audiences for the arts; improving artistic, cultural, educational, or economic development within a community; and/or supporting specific community goals such as health

and wellness, public safety, civic discourse, or other quality of life measures.

"Resiting" means the relocation of a work of art in the state art collection within the jurisdiction of a partner agency or between partner agencies.

"Restoration" means treatment that returns a malfunctioning or damaged work of art to a known or assumed state, often through the addition of nonoriginal material.

"Review criteria" means the standards used by panels to evaluate and score applications or nominations.

"Roster" means a list of approved arts professionals who have the skills and experience to address the needs of a specific commission program.

"Routine maintenance" means a regular procedure to preserve a work of art in the state art collection in proper condition: Clean, presentable, and in working order.

"Site responsive" means created, planned, or intended for a particular site. A site responsive work of art addresses both the physical characteristics of its location and the context of the community in which it is situated.

"Special maintenance" means anticipated but infrequent activities required to maintain aesthetic and/or structural aspects of the works of art in the state art collection, including integrity of the overall surface and/or individual elements.

"Staff" means employees of the Washington state arts commission, under the direction of the executive director, pursuant to RCW 43.46.045, employed to carry out the functions of that chapter, and Title 30 WAC.

"State art collection" means all works of art and select design models commissioned or purchased under RCW 43.17.200, 28A.58.055, 28A.335.210, 43.46.090, and 43.19.-455.

"State-certified creative district" means a creative district whose application for certification has been approved by the commission.

"Teaching artist" means a professional artist who is dedicated to arts education as an integral part of their professional practice, and who has cultivated skills as an educator in concert with skills as an artist.

"Under-resourced" means a lack of access to specialized, professional, financial, or institutional expertise and communal knowledge, and/or working with neglected or dated infrastructures and limited or absent assets and resources resulting in lack of recognition, competitiveness, and cyclical absent or diminished funding.

"Underserved" means populations whose opportunities to experience the arts are limited by geography, historical exclusion and marginalization due to race, ethnicity, sexual orientation, gender identity, economics, disability, or other social or institutionally imposed barriers.

~~("Under-resourced" means a lack of access to specialized, professional, financial, or institutional expertise and communal knowledge, and/or working with neglected or dated infrastructures and limited or absent assets and resources resulting in lack of recognition, competitiveness, and cyclical absent or diminished funding.)~~

"Washington state arts commission" means the collective entity of the Washington state arts commission, including the board and staff.

WSR 19-22-075

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed November 5, 2019, 2:42 p.m., effective January 1, 2020]

Effective Date of Rule: January 1, 2020.

Purpose: WAC 246-440-100 Hospital reporting requirements for health care-associated infections, the department of health adopted rules to update hospital reporting requirements. The adopted rules will align reporting requirements with those established by the Centers for Medicare and Medicaid Services as required under RCW 43.70.056.

The effective date of the rules, January 1, 2020, gives hospitals time to make changes effective for the new calendar year.

Citation of Rules Affected by this Order: Amending WAC 246-440-100.

Statutory Authority for Adoption: RCW 43.70.056.

Adopted under notice filed as WSR 19-18-092 on September 4, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 5, 2019.

John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 14-16-056, filed 7/30/14, effective 8/30/14)

WAC 246-440-100 Hospital reporting requirements for health care-associated infections. The purpose of this section is to ~~((provide access to data on hospital-specific rates of certain types of health care-associated infection))~~ establish data collection and submission requirements for health care-associated infections at hospitals. This type of data provides evidence-based information measures to reduce hospital-acquired infections.

(1) A hospital ~~((shall))~~ must routinely collect and submit data related to health care-associated infections to the National Healthcare Safety Network (NHSN) of the United States Centers for Disease Control and Prevention (CDC) in compliance with RCW 43.70.056. ~~((Data must be collected and reported in accordance with the Centers for Disease Control and Prevention National Healthcare Safety Network on:~~

(a) Central line-associated bloodstream infection in all hospital inpatient areas where patients normally reside at least twenty-four hours;

(b) Surgical site infection for:

(i) Deep sternal wound for cardiac surgery, including coronary artery bypass graft;

(ii) Total hip and knee replacement surgery; and

(iii) Colon and abdominal hysterectomy procedures.

(2) A hospital shall also collect and report data for *Clostridium difficile* (*C. difficile*) infections by the Centers for Disease Control and Prevention National Healthcare Safety Network LabID Event method.)

(2) A hospital that is licensed under chapter 70.41 RCW and is also an acute care hospital under 42 U.S.C. 1395ww (c)(1)(A), a rehabilitation hospital under 42 U.S.C. 1395ww (d)(1)(B)(ii), a cancer hospital under 42 U.S.C. 1395ww (d)(1)(B)(v), or a critical access hospital under 42 U.S.C. 1395i-4 must collect and submit data as required by the Centers for Medicare and Medicaid Services (CMS) for quality reporting programs or projects listed in Table 1 of this section.

(3) A hospital that is certified as a critical access hospital may also voluntarily submit optional data requirements in Table 2 of this section. Submission of optional data is voluntary and is beneficial for understanding health care-associated infection rates at these hospitals. A hospital that submits optional data under this section must submit data on all the optional reporting categories found in Table 2.

(4) All data collected under this section must be collected and submitted in accordance with CDC NHSN's definitions, methods, requirements, and procedures found at www.cdc.gov/nhsn/.

Table 1

National Health Safety Network Health Care-Associated Infection Reporting Requirements for Hospitals
Centers for Medicare and Medicaid Services (CMS),
January 2019

<u>Hospital Type (CMS Reporting Program or Project)</u>	<u>Reporting Requirement (Health Care-Associated Infection Event)</u>	<u>Reporting Specifications (if any)</u>
<u>Acute Care Hospital (CMS Hospital Inpatient Quality Reporting (IQR) Program authorized by 42 U.S.C. 1395ww (b)(3) (B)(viii))</u>	Central line-associated blood stream infection	Adult, pediatric and neonatal intensive care units, medical, surgical, and medical/surgical wards
	Catheter-associated urinary tract infection	Adult and pediatric intensive care units, medical, surgical, and medical/surgical wards
	Surgical site infection - Colon procedure	Inpatient procedures
	Surgical site infection - Abdominal hysterectomy procedure	Inpatient procedures
	MRSA bacteremia LabID Event	Facility-wide Inpatient (FacWideln)

<u>Hospital Type (CMS Reporting Program or Project)</u>	<u>Reporting Requirement (Health Care-Associated Infection Event)</u>	<u>Reporting Specifications (if any)</u>
	<i>Clostridioides</i> (FKA <i>Clostridium</i>) <i>difficile</i> LabID Event	Facility-wide Inpatient (FacWideln)
	Health care personnel flu vaccination	All inpatient health care personnel
	Catheter-associated urinary tract infection	All adult and pediatric inpatient rehabilitation locations
<u>Rehabilitation Hospital (CMS Inpatient Rehabilitation Facility Quality Reporting (IRFOR) Program authorized by 42 U.S.C. 1395ww(j)(7))</u>	<i>Clostridioides</i> (FKA <i>Clostridium</i>) <i>difficile</i> LabID Event	Facility-wide Inpatient (FacWideln)
	Health care personnel flu vaccination	All inpatient health care personnel
	Catheter-associated urinary tract infection	All adult and pediatric inpatient rehabilitation locations
<u>Cancer Hospital (CMS PPS-Exempt Cancer Hospital Quality Reporting (PCHOR) Program authorized by 42 U.S.C. 1395cc(k))</u>	Central line-associated blood stream infection	All bedded inpatient locations
	Catheter-associated urinary tract infection	All bedded inpatient locations
	Surgical site infection - Colon procedure	Inpatient procedures
	Surgical site infection - Abdominal hysterectomy procedure	Inpatient procedures
	MRSA bacteremia LabID Event	Facility-wide Inpatient (FacWideln)
	<i>Clostridioides</i> (FKA <i>Clostridium</i>) <i>difficile</i> LabID Event	Facility-wide Inpatient (FacWideln)
	Health care personnel flu vaccination	All inpatient health care personnel
<u>Critical Access Hospital (CMS Core Member Beneficiary Quality Improvement Project (MBOIP) Measures authorized by 42 U.S.C. 1395i-4)</u>	National Health Safety Network Annual Hospital Survey (Antimicrobial stewardship)	
	Health care personnel flu vaccination	Required of all inpatient health care personnel

Table 2
Optional Reporting

<u>Hospital Type (CMS Reporting Project)</u>	<u>Optional Reporting (Health Care-Associated Infection Event)</u>
<u>Critical Access Hospital - (CMS Additional Member Beneficiary Quality Improvement Project (MBOIP) Measures authorized by 42 U.S.C. 1395i-4)</u>	Central line-associated blood stream infection
	Catheter-associated urinary tract infection
	Surgical site infection - Colon procedure
	Surgical site infection - Abdominal hysterectomy procedure
	MRSA bacteremia LabID Event
	<i>Clostridioides</i> (FKA <i>Clostridium</i>) <i>difficile</i> LabID Event

WSR 19-22-103
PERMANENT RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed November 6, 2019, 11:56 a.m., effective December 7, 2019]

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

Purpose: For early learning child care programs:

- Allow five years from the date of hire or promotion for a new child care center director, assistant director, or program supervisor to satisfy education requirements in accordance with Directive of the Governor 19-05;
- Disallow a philosophical or personal objection to exempt a child enrolled in a day care center from the measles, mumps, and rubella vaccine (implementing chapter 362, Laws of 2019);
- Require staff and volunteers on child care center premises to have received a measles, mumps, and rubella vaccine or show proof of immunity and require centers to keep these records for each staff member and volunteer (implementing chapter 362, Laws of 2019);
- Align child care sanitization requirements with the state department of health's recommendations;
- Ensure all classes protected under both the state and federal constitutions are identified in child care nondiscrimination requirements;
- Clarify that child care licensing waivers will be granted at the department of children, youth, and families' discretion; and
- Make nonsubstantive amendments to improve readability.

Citation of Rules Affected by this Order: Amending WAC 110-300-0005, 110-300-0016, 110-300-0020, 110-300-0030, 110-300-0100, 110-300-0107, 110-300-0115, 110-300-0120, 110-300-0205, 110-300-0335, 110-300-0420, 110-300-0470, 110-300-0475, 110-305-2050; 110-305-2325, 110-305-3250, and 110-305-3300.

Statutory Authority for Adoption: RCW 43.216.055, 43.216.065 and 43.216.250; chapter 43.216 RCW.

Adopted under notice filed as WSR 19-17-052 on August 16, 2019.

Changes Other than Editing from Proposed to Adopted Version:

- WAC 110-300-0120(3) revised as requested by Washington state department of health to better align with chapter 362, Laws of 2019; and
- WAC 110-300-0205 revised as follows:
 - *Ringworm* inserted in subsection (5)(f) to better clarify child care requirements for ringworm-related exclusion and readmittance; and
 - *Listed in* replaced by *pursuant to* in subsections (6) and (8).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 7, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 8, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: November 6, 2019.

Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-300-0005 Definitions. The following definitions apply to this chapter:

"Accessible to children" means items, areas or materials of an early learning program that a child can reasonably reach, enter, use, or get to on their own.

"Accommodations" means program curriculum and instruction, activities, spaces, and materials that have been adapted to help children and adults with special need function within their surroundings.

"Active supervision" or **"actively supervise"** means a heightened standard of care beyond supervision. This standard requires an early learning provider to see and hear the children they are responsible for during higher risk activities. The provider must be able to prevent or instantly respond to unsafe or harmful events.

"ADA" refers to the Americans with Disabilities Act, as now and hereafter amended.

"Aide" is a person who offers support to the early learning program staff.

"Allergy" or **"allergies"** refers to an overreaction of the immune system to a substance that is harmless to most people. During an allergic reaction, the body's immune system treats the substance or "allergen" as an invader. The body overreacts by releasing chemicals that may cause symptoms ranging from mildly annoying to life threatening. Common allergens include certain foods (milk, eggs, fish, shellfish, common tree nuts, peanuts, wheat, and soybeans) pollen, mold, or medication.

"Annual" means the calendar year, January 1st through December 31st.

"Applicant" means an individual who has made a formal request for a child care license, certification, exemption, or portable background check.

"Appropriate" when used to refer to child care or educational materials means that the materials will interest and challenge children in terms of their ages and abilities.

"Appropriately" means correct or properly suited for a particular situation.

"Assistant director" is a person responsible for the overall management of the center early learning program including the facility and operations.

"Assistant teacher" is a person whose work is to assist a lead teacher or licensee in providing instructional supports to children and implementing a developmentally appropriate

program. The assistant must carry out assigned tasks under the supervision of a lead teacher, program supervisor, director, assistant director, or licensee.

"ASTM" refers to the American Society for Testing and Materials.

"Bathroom" means a room containing a built-in, flush-type toilet.

"Bias" means a tendency to believe that some people or ideas are better than others that usually results in treating some people unfairly.

"Body of water" or **"bodies of water"** is a natural area or human-made area or device that contains or holds a depth of more than two inches of water. Examples include swimming pools, ditches, canals, fish ponds, water retention areas, excavations, and quarries.

"CACFP" means the Child and Adult Care Food Program established by Congress and funded by the United States Department of Agriculture (USDA).

"Cannabis" (also known as "marijuana") refers to all parts of the cannabis plant, whether growing or not, the seeds thereof, the resin or concentrate extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

"Capacity" means the maximum number of children an early learning provider is authorized by the department to have in care at any given time. This includes any children on-site at the early learning program and any children in transit to or from the program or other activities such as field trips while the children are signed in to the care of the program.

"Center early learning program" is a facility providing regularly scheduled care for a group of children birth through twelve years of age for periods of less than twenty-four hours a day, pursuant to RCW 43.216.010 (1)(a) (child day care center).

"Center early learning program licensee" or **"center licensee"** means an entity licensed and authorized by the department to operate a center early learning program.

"Certificate of exemption (COE)" means a form that is approved by the Washington state department of health and consistent with the requirements of WAC 246-105-050(2), or an immunization form produced by the state immunization information system.

"Certificate of immunization status (child)" means a form that is approved by the Washington state department of health and consistent with the requirements of WAC 246-105-050(1), or an immunization form produced by the state immunization information system.

"Certification" means department approval of a person, home, or facility that is exempt from licensing but requests evidence that the program meets these foundational licensing standards.

"Child" means an individual who is younger than age thirteen, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter.

"Child abuse" or **"neglect"** means the physical abuse, sexual abuse, sexual exploitation, abandonment, negligent treatment or maltreatment of a child by any person as defined in RCW 26.44.020.

"Child care" refers to supervision of children outside the child's home for periods of less than twenty-four hours a day.

"Child care basics" or **"CCB"** means curriculum designed to meet the initial basic training requirement for early learning program staff working in licensed or certified programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the early care and education field.

"Chromated copper arsenate" or **"CCA"** is a wood preservative and insecticide that contains roughly twenty-two percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playground equipment. Information about the health hazards of arsenic can be found on the department of health's website.

"Clean" or **"cleaning"** means to remove dirt and debris from a surface by scrubbing and washing with a detergent solution and rinsing with water. This process must be accomplished before sanitizing or disinfecting a surface.

"Confidential" means the protection of personal information, such as the child's records, from individuals who are not authorized to see or hear the information.

"Consistent care" means providing steady opportunities for children to build emotionally secure relationships by primarily interacting with a limited number of early learning program staff.

"Contagious disease" means an illness caused by an infectious agent of public health concern which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air. Contagious diseases pertinent to this chapter are described in WAC 246-110-010.

"Continuous" means without interruptions, gaps, or stopping.

"Core competencies" are standards required by the department that detail what early learning providers need to know and are able to do to provide quality care and education for children and their families.

"CPSC" means the United States Consumer Product Safety Commission.

"Cultural" or **"culturally"** means in a way that relates to the ideas, customs, and social behavior of different societies.

"Curriculum philosophy" means a written statement of principles developed by an early learning provider to form the basis of the learning program of activities, including age appropriate developmental learning objectives for children.

"DCYF" or **"the department"** refers to the Washington state department of children, youth, and families.

"Developmental screening" is the use of standardized tools to identify a child at risk of a developmental delay or disorder. (Source: American Academy of Pediatrics, *Healthy Child Care America*, 2009).

"Developmentally appropriate" means:

(a) An early learning provider interacts with each child in a way that recognizes and respects the child's chronological and developmental age;

(b) Knowledge about how children grow and learn;

(c) Reflects the developmental level of the individual child; and

(d) Interactions and activities are planned with the developmental needs of the individual child in mind.

"Director" means the person responsible for the overall management of a center early learning program including the facility and operation.

"Disability" or **"disabilities"** has the same meaning in this chapter as in RCW 49.60.040(7), the Washington law against discrimination.

"Discipline" means a method used to redirect a child in order to achieve a desired behavior.

"Disinfect" means to eliminate virtually all germs from an inanimate surface by the process of cleaning and rinsing, followed by:

(a) The application of a fragrance-free chlorine bleach and water solution following the ((~~manufacturer's instructions~~)) department of health's current guidelines for mixing bleach solutions for child care and similar environments; or

(b) The application of other disinfectant products registered with the EPA, if used strictly according to the manufacturer's label instructions including, but not limited to, quantity, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled "safe for food contact surfaces."

"Disinfectant" means a chemical or physical process that kills bacteria and viruses.

"Drinking water" or **"potable water"** is water suitable for drinking by the public as determined by the Washington state department of health or a local health jurisdiction.

"Dual language learners" refers to children who are learning two or more languages at the same time. This term includes children who learn two or more languages from birth, and children who are still mastering their home language when they are introduced to and start learning a second language. (Source: *The Washington State Early Learning and Development Guidelines*.)

"Early achievers" is a statewide system of high-quality early learning that connects families to early learning programs with the help of an easy to understand rating system and offers coaching, professional development, and resources for early learning providers to support each child's learning and development.

"Early childhood education (ECE) initial certificate" (twelve quarter credits) is Washington's initial certificate in early childhood education and serves as the point of entry for a career in early learning and covers foundational content for early learning professionals.

"Early childhood education (ECE) short certificate" (initial certificate plus eight quarter credits) is Washington's short certificate in early childhood education and offers areas of specialization, building on the state's initial certificate.

"Early childhood education (ECE) state certificate" (short certificate plus twenty-seven quarter credits) is Washington's state certificate in early childhood education and is the benchmark for Level 2 core competencies for early care and education professionals and prepares for the next step, an associate's degree in early childhood education.

"Early learning program" refers to regularly scheduled care for a group of children birth through twelve years of age for periods of less than twenty-four hours, licensed by the department.

"Early learning program space" means the licensed indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

"Early learning program staff" refers to all persons who work, substitute, or volunteer in an early learning program during hours when children are or may be present, excluding licensees.

"Early learning provider" or **"provider"** refers to an early learning licensee or designee who works in an early learning program during hours when children are or may be present. Designees include center directors, assistant directors, program supervisors, lead teachers, assistants, aides, and volunteers.

"ECEAP" or **"early childhood education and assistance program"** is a comprehensive preschool program that provides free services and support to eligible children and their families.

"Electronic record" means a record generated, communicated, received or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Electronic workforce registry" refers to the Washington state department of children, youth, and families' current database of professional records of individual early learning providers.

"Emergency preparedness" means a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination in case of emergencies or during incident response.

"Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(3). An early learning provider may contest enforcement actions and seek an adjudicative proceeding pursuant to chapter 110-03 WAC.

"EPA" means the United States Environmental Protection Agency.

"Equivalency" when referring to staff qualifications means an individual is allowed to meet the requirements of this chapter through a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the named credential.

"Exempt" or **"exemption"** ~~((in regards))~~ means, as applied to immunizations ((means)), a type of immunization status ((approved by the Washington state department of health)) where a child has not been fully immunized against one or more vaccine preventable diseases required by chapter 246-105 WAC for full immunization due to medical, religious, philosophical or personal reasons. Under chapter 362,

Laws of 2019, if a child plans on attending or is attending a center early learning program, a philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

"Expel" or "expulsion" means to end a child's enrollment in an early learning program. An early learning provider will end a child's enrollment if the provider is unable to meet a child's needs due to the child's challenging behavior.

"Family home early learning program" means an early learning program licensed by the department where a family home licensee provides child care or education services for twelve or fewer children in the family living quarters where the licensee resides as provided in RCW 43.216.010 (1)(c) (family day care provider).

"Family home early learning program licensee" or "family home licensee" means an individual licensee authorized by the department to operate a family home early learning program within the licensee's family living quarters.

"Family living quarters" means a family home licensee or applicant's residence and other spaces or building on the premises.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Foundational quality standards" refers to the administrative and regulatory requirements contained within this chapter. These standards are designed to promote the development, health, and safety of children enrolled in center and family home early learning programs. The department uses these standards to equitably serve children, families, and early learning providers throughout Washington state.

"Good repair" means about eighty percent of materials and components are unbroken, have all their pieces, and can be used by children as intended by the manufacturer or builder.

"Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of Washington state to provide health care in the ordinary course of business or practice of a profession.

"Household member" means one or more individuals who live in the same dwelling or share living arrangements, and may consist of family relatives or other groups of people.

"Immunization" is the process of administering a vaccine to make a person immune or resistant to an infectious disease.

"Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of an early learning program.

"Inactive" when used by the department to indicate a licensing status, means early learning providers who have requested and have been approved to temporarily cease caring for children and close their early learning program.

"Individual care plan" means a specific plan to meet the individual needs of a child with a food allergy, special dietary requirement due to a health condition, other special needs, or circumstances.

"Infant" is a child birth through eleven months of age.

"In-service training" means professional development requirements for continuing education delivered or approved by the department to maintain staff standards and qualifications while employed as an early learning provider.

"Internal review process" has the same meaning in this chapter as in RCW 43.216.395, as now or hereafter amended.

"Lead teacher" means an early learning provider who works as the lead staff person in charge of a child or group of children and implements activity programs.

"License" means a permit issued by the department legally authorizing an applicant to operate an early learning program.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

"Licensee" means an individual or legal entity listed on a license issued by the department, authorized to provide child care or early learning services in a center or family home setting.

"Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat.

"Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock.

"Modification" when used in reference to an early learning provider's licensing status, means an enforcement action by the department to change the conditions identified on a licensee's current license.

"Nonexpiring license" means a license that is issued to an early learning provider following the initial licensing period, pursuant to chapter 43.216 RCW.

"Operating hours" means the hours listed in an early learning program parent handbook when the program is open and providing care and services to children.

"Parent" or "guardian" means birth parent, custodial parent, foster parent, legal guardian or those authorized by the parent or entity legally responsible for the welfare of the child.

"Peer interaction" refers to relationships children have with one another, which includes how infants and toddlers play near one another and how preschoolers play together, communicate, and whether they fight or get along.

"Personal needs" means an early learning provider's toileting or medication needs. Personal needs do not include smoking or use of tobacco products, illegal drug use or misuse or prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.

"Pest" means an animal, plant, or insect that has a harmful effect on humans, food, or living conditions.

"Pesticide" refers to chemicals used to kill pests.

"Pet" means a domestic or tamed animal or bird kept for companionship or pleasure.

"Physical barrier" means a nonclimbable fence or a wall that is at least five feet tall and has no openings greater than two inches or a gate or door that allows entry to and exit from a body of water and has the following requirements in addition to those already listed: A locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff.

"Physical restraint" means holding a child as gently as possible for the minimum amount of time necessary to con-

trol a situation where that child's safety or the safety of others is threatened.

"Poison" includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items that even in small quantities, are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

"Premises" means the licensed and unlicensed space at the licensed address including, but not limited to, buildings, land, and residences.

"Preschool-age children" means children thirty months through six years of age not attending kindergarten or elementary school.

"Preservice training" means professional development standards or requirements for early learning program staff prior to hiring or within a department specified time frame and delivered or approved by the department.

"Private septic system" means a septic system as defined in chapter 246-272A WAC that is not connected to a public sewer system or a large on-site sewage system as defined in chapter 246-272B WAC. A private septic system includes, but is not limited to, the septic system's drain field and tanks.

"Probationary license" has the same meaning as in RCW 43.216.010(23).

"Professional development support plan" is a formal means by which an individual who is supervising staff sets out the goals, strategies, and outcomes of learning and training.

"Program supervisor" means the center early learning provider responsible for planning and supervising the learning and activity program.

"RCW" means the Revised Code of Washington.

"Readily available" means able to be used or obtained quickly and easily.

"Revocation" or **"revoke"** when used in reference to an early learning provider's licensing status, means an enforcement action by the department to close an early learning program and permanently remove the license.

"Routine care" means typical or usual care provided to a child during the time the child is enrolled in the early learning program (for example: Feeding, diapering, toileting, napping, resting, playing, and learning).

"Safe route" means a way or course taken to get from a starting point to a destination that is protected from danger or risk.

"Safety plan" means a written plan to implement program changes to bring an early learning program into compliance with this chapter and chapter 43.216 RCW. Safety plans are developed at meetings involving at least an early learning provider and a department licensor and supervisor. Safety plans detail changes the provider needs to make to mitigate the risk of direct and indirect harm to children enrolled in the early learning program. Program changes ~~((shall))~~ must be agreed to in writing and signed by all participants at the meeting. Safety plans expire thirty calendar days after being signed by all parties. Safety plans may only be extended for an additional thirty days and extensions may only be authorized by a department supervisor.

"Sanitize" means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing with water at a high temperature pursuant to this chapter; or

(b) Cleaning and rinsing, followed by using:

(i) A fragrance-free chlorine bleach and water solution following the ~~((manufacturer's instructions))~~ department of health's current guidelines for mixing bleach solutions for child care and similar environments; or

(ii) Other sanitizer product if it is registered with the EPA and used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as "safe for food contact surfaces."

"School-age children" means a child not less than five years of age through twelve years of age who is attending kindergarten or elementary school.

"Screen time" means watching, using, or playing television, computer, video games, video or DVD players, mobile communication devices, or similar devices.

"Serious injury" means an injury resulting in an overnight hospital stay; a severe neck or head injury; choking or serious unexpected breathing problems; severe bleeding; shock or an acute confused state; sudden unconsciousness; dangerous chemicals in eyes, on skin, or ingested; near drowning; one or more broken bones; a severe burn requiring professional medical care; poisoning; or an overdose of a chemical substance.

"Shelter in place" means staff and children staying at the facility due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the facility.

"Sign" means an individual formally placing their name or legal mark on a document by physical signature or electronic signature.

"Sleeping equipment" includes a bed, cot, mattress, mat, crib, bassinet, play yard or "pack and play" but does not include a car seat or infant swing.

"Special needs" is a term used for children who require assistance due to learning difficulties, physical disability, or emotional and behavioral difficulties and who have documentation in the form of an individual educational plan (IEP), individual health plan (IHP), 504 plan, or an individualized family service plan (IFSP).

"Staff" means any early learning provider providing care in the early learning program.

"Strengthening families program self-assessment" refers to a research informed approach to increase family strengths, enhanced child development, and reduce the likelihood of child abuse and neglect. It is based on engaging families, programs, and communities in building five protective factors:

- (a) Parental resilience;
- (b) Social connections;
- (c) Knowledge of parenting and child development;
- (d) Concrete support in times of need; and
- (e) Social and emotional competence of children.

"Supervise" or **"supervision"** means an early learning provider must be able to see or hear the children they are responsible for at all times. Early learning providers must use their knowledge of each child's development and behavior to anticipate what may occur to prevent unsafe or unhealthy events or conduct, or to intervene in such circumstances as soon as possible. Early learning providers must also reposition themselves or the children to be aware of where children are and what they are doing during care. An early learning provider must reassess and adjust their supervision each time child care activities change. See "active supervision" for a heightened standard of care.

"Suspend" when used in reference to an early learning provider's licensing status, means an enforcement action by the department to temporarily stop a license in order to protect the health, safety, or welfare of enrolled children or the public.

"Swimming pool" means a pool that has a water depth greater than two feet (24 inches).

"Technical assistance" means a service provided to early learning providers by department staff or a contracted third party. The goal of technical assistance is to offer guidance, information, and resources to help a provider fully comply with the licensing requirements of this chapter and chapter 43.216 RCW.

"Toddler" means a child twelve months through twenty-nine months of age.

"Transition" is the process or period of time to change from one activity, place, grade level, or sleeping arrangement to another.

"Tummy time" means placing an infant in a nonrestrictive prone position, lying on his or her stomach when not in sleeping equipment.

~~("Transition" is the process or period of time to change from one activity, place, grade level, or sleeping arrangement to another.)~~

"Unlicensed space" means the indoor and outdoor areas of the premises not approved by the department as licensed space that the early learning provider must make inaccessible to the children during child care hours.

"Unsupervised access" as used throughout this chapter has the same meaning as in WAC 110-06-0020.

"Usable space" means the areas that are available at all times for use by children in an early learning program and meets licensing requirements.

"USDA" means the U.S. Department of Agriculture.

~~("Usable space" means the areas that are available at all times for use by children in an early learning program and meets licensing requirements.)~~

"Vapor product" means any:

(a) Device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(b) Cartridge or container of a solution or substance intended to be used with or in such a device or to refill such a device; or

(c) Solution or substance intended for use in such a device including, but not limited to, concentrated nicotine, nonnicotine substances, or supplemental flavorings. This includes any electronic cigarettes, electronic nicotine deliv-

ery systems, electronic cigars, electronic cigarillos, electronic pipes, hookahs, steam stones, vape pens, or similar products or devices, as well as any parts that can be used to build such products or services. "Vapor product" does not include any drug, device, or combination product approved for sale by the United States Food and Drug Administration that is marketed and sold for such approved purpose.

"Variance" is an official approval by the department to allow an early learning program to achieve the outcome of a rule or rules in this chapter in an alternative way than described due to the needs of a unique or specific program approach or methodology. The department ~~((must))~~ may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. An early learning provider does not have the right to appeal the department's disapproval of request for variance under chapter 110-03 WAC. The provider may challenge a variance disapproval on a department form.

"Volunteer" includes any person who provides labor or services to an early learning provider but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the parent or guardian of that child or is an authorized person pursuant to WAC 110-300-0345 (1)(c). "Unsupervised access" has the same meaning here as in WAC 110-06-0020.

"WAC" means the Washington Administrative Code.

"Wading pool" means a pool that has a water depth of less than two feet (24 inches).

"Waiver" is an official approval by the department allowing an early learning provider not to meet or satisfy a rule in this chapter due to specific needs of the program or an enrolled child. The department ~~((must))~~ may grant a request for waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. An early learning provider does not have the right to appeal the department's disapproval of a waiver request under chapter 110-03 WAC. The provider may challenge a waiver disapproval on a department form.

"Walking independently" means an individual is able to stand and move easily without the aid or assistance of holding on to an object, wall, equipment, or another individual.

"Washington state early learning and development guidelines" refers to guidelines published by the department, the Washington state office of superintendent of public instruction (OSPI), and thrive Washington for children birth through third grade that outlines what children know and are able to do at different stages of their development.

"Water activities" means early learning program activities in which enrolled children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables.

"Weapon" means an instrument or device of any kind that is used or designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

"Written food plan" is a document designed to give alternative food to a child in care because of a child's medical needs or special diet, or to accommodate a religious, cultural, or family preference. A parent or guardian and the early learning provider must sign a written food plan.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0016 Inactive status—Voluntary and temporary closure. (1) If a center or family home licensee plans to temporarily close their early learning program for more than thirty calendar days, and this closure is a departure from the program's regular schedule, an early learning provider must submit a notification to go on inactive status to the department at least two business days prior to the planned closure. Notifications for inactive status must include:

- (a) The date the early learning program will cease operating;
- (b) The reasons why the licensee is going on inactive status; and
- (c) A projected date the early learning program will reopen.

(2) The requirements of this section do not apply to licensed early learning programs that have temporary closures beyond thirty calendar days as part of their regular schedule, such as programs based on the school year or seasonal occupation.

(3) A licensee may not request inactive status during their first initial licensing period (six months) unless for an emergency.

(4) An early learning provider must inform parents and guardians that the program will temporarily close.

(5) An early learning provider is responsible for notifying the department of changes to program status including voluntary closures, new household members or staff, or other program changes. Program status updates must also be completed in the department's electronic system.

(6) Background check rules in chapter 110-06 WAC, including allegations of child abuse or neglect, will remain in effect during inactive status.

(7) After receiving a notice of inactive status, the department will:

- (a) Place the license on inactive status;
- (b) Inform the licensee that the license is inactive; and
- (c) Notify the following programs of the inactive status:
 - (i) The department's child care subsidy programs;
 - (ii) USDA Child and Adult Care Food Program (CACFP); and
 - (iii) Early achievers, ECEAP, Head Start Grantee, and child care aware of Washington.

(8) A licensee is still responsible for maintaining annual compliance requirements during inactive status pursuant to RCW 43.216.305.

(9) If inactive status exceeds six months within a twelve-month period, the department must close the license for failing to comply with RCW 43.216.305(2). The licensee must reapply for licensing pursuant to RCW 43.216.305(3).

(10) The department may pursue enforcement actions after three failed attempts to monitor an early learning program if:

- (a) The early learning provider has not been available to permit the monitoring visits;
- (b) The monitoring visits were attempted within a three-month ~~((span to the monitoring due date))~~ time period; and
- (c) The department attempted to contact the provider by phone during the third attempted visit while still on the early learning premises.

(11) When a licensee is ready to reopen after a temporary closure, the licensee must notify the department in writing. After receiving notice of the intent to reopen, the department will:

- (a) Conduct a health and safety visit of the early learning program within ten business days to determine that the provider is in compliance with this chapter;
- (b) Activate the license and inform the licensee that the license is active; and
- (c) Notify the following programs of the active status:
 - (i) The department's child care subsidy programs;
 - (ii) CACFP; and
 - (iii) Early achievers, ECEAP, Head Start Grantee, and child care aware of Washington.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0020 Unlicensed programs. (1) If the department suspects that an individual or agency ~~((is))~~ suspected of providing unlicensed child care, the department must follow the requirements of RCW 43.216.360.

(2) If an individual decides to obtain a license, within thirty calendar days from the date of the department's notice in subsection (1) of this section, the individual or agency must submit a written agreement on a department form stating they agree to:

- (a) Attend and participate in the next available department licensing orientation; and
- (b) Submit a licensing application after completing orientation.

(3) The department's written notice under subsection (1) of this section must inform the individual or agency providing unlicensed child care:

- (a) That the individual or agency must stop providing child care, pursuant to RCW 43.216.360;
- (b) How to respond to the department;
- (c) How to apply for a license;
- (d) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license;
- (e) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and
- (f) How to ask for a hearing, under chapter 34.05 RCW (Administrative Procedure Act), chapter 43.216 RCW, and chapter 110-03 WAC (department hearing rules).

(4) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (2) of this section within thirty calendar days from the date of the department's written notice, the department

will post information on its website that the individual is providing child care without a license.

(5) A person providing unlicensed child care:

(a) ~~((shall))~~ Will be guilty of a misdemeanor pursuant to RCW 43.216.365; and

(b) May be subject to an injunction pursuant to RCW 43.216.355.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0030 Nondiscrimination. (1) Early learning programs are defined by state ~~((and federal))~~ law as places of public accommodation that must:

(a) Not discriminate in employment practices or client services based on race, creed, ~~((ethnicity))~~ color, national origin, sex, honorably discharged veteran or military status, marital status, gender, sexual orientation, ~~((class,))~~ age, religion, or ability; and

(b) Comply with the requirements of the Washington law against discrimination (chapter 49.60 RCW) and the ADA.

(2) An early learning program must have a written non-discrimination policy addressing at least the factors listed in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0100 General staff qualifications. All early learning providers must meet the following requirements prior to working:

(1) **Family home early learning program licensees** work from their private residence to provide early learning programing to a group of no more than twelve children present at one time.

(a) A family home licensee must meet the following qualifications upon application:

(i) Be at least eighteen years old;

(ii) Have a high school diploma or equivalent; and

(iii) Complete the applicable preservice requirements pursuant to WAC 110-300-0105.

(b) A family home licensee must meet the following qualifications:

(i) Family home licensees must have an ECE initial certificate, or equivalent as approved and verified in the electronic workforce registry by the department within five years of the date this section becomes effective; and

(ii) Upon completion of the ECE initial certificate or equivalent, family home licensees must complete an ECE short certificate or equivalent within two years, as approved and verified in the electronic workforce registry by the department.

(A) If a family home licensee already has an existing ECE initial certificate or equivalent, the licensee must complete an ECE short certificate or equivalent within five years of licensure by the department.

(B) Five years from the date this rule takes effect, the family home licensee must complete an ECE short certificate or equivalent within three years.

(iii) Have their continued professional development progress documented annually.

(c) Family home licensees must provide the following services:

(i) Be on-site for the daily operation of the early learning program fifty percent or more of weekly operating hours, or designate a person with the qualifications of a family home licensee to be on-site when not present;

(ii) Comply with these foundational quality standards;

(iii) Develop a curriculum philosophy, communicate the philosophy to all early learning program staff and parents, and train staff to ensure the philosophy serves all children in the early learning program;

(iv) Have knowledge of community resources available to families, including resources for children with special needs and the ability to share these resources with families; and

(v) Oversee early learning program staff and support staff in creating and maintaining staff records.

(2) **Center early learning program licensees** must meet the requirements of a center director, listed in subsection (3) of this section, or hire a center director who meets the qualifications prior to being granted an initial license. Center licensees who fulfill the role of center director in their early learning program must complete all trainings and requirements for center directors.

(3) **Center directors or assistant directors** manage the early learning program and set appropriate program and staff expectations.

(a) A center director must meet the following qualifications:

(i) Be at least eighteen years old;

(ii) Have an ECE state certificate or equivalent as approved and verified in the electronic workforce registry by the department as follows:

(A) A center director working at the time this chapter becomes effective must complete an ECE state certificate or equivalent within five years of the date this section becomes effective;

(B) A center director hired or promoted after this chapter becomes effective must have an ECE state certificate or equivalent ~~((at))~~ within five years of the time of hire.

(iii) Have two years of experience as a teacher of children in any age group enrolled in the early learning program and at least six months of experience in administration or management or a department approved plan;

(iv) Complete the applicable preservice requirements, pursuant to WAC 110-300-0105;

(v) If a center director does not meet the minimum qualification requirements, the center early learning program must employ an assistant director or program supervisor who meets the minimum qualifications of these positions;

(vi) Have their continued professional development progress documented annually.

(b) An assistant director must meet the following qualifications:

(i) Be at least eighteen years old;

(ii) Have an ECE state certificate or equivalent as approved and verified in the electronic workforce registry by the department as follows:

(A) An assistant director working at the time this chapter becomes effective must complete an ECE state certificate or

equivalent within five years of the date this section becomes effective;

(B) An assistant director hired or promoted after this chapter becomes effective must have an ECE state certificate or equivalent ~~((and))~~ within five years of the time of hire.

(iii) Have two years of experience as a teacher of children in any age group enrolled in the early learning program or two years of experience in administration or management, or a department approved plan;

(iv) Complete the applicable preservice requirements, pursuant to WAC 110-300-0105;

(v) Have their continued professional development progress documented annually.

(c) A center director or assistant director or equivalent must provide the following services:

(i) Be on-site for the daily operation of the early learning program fifty percent or more of weekly operating hours up to forty hours per week, or designate a person with the qualifications of an assistant director, program supervisor, or equivalent. A center director may act as a substitute teacher if acting as a substitute does not interfere with management or supervisory responsibilities;

(ii) Comply with foundational quality standards;

(iii) Develop a curriculum philosophy, communicate the philosophy to all early learning program staff and parents, and train staff to ensure the philosophy serves all children in the early learning program (or designate a program supervisor with this responsibility);

(iv) Have knowledge of community resources available to families, including resources for children with special needs and be able to share these resources with families; and

(v) Oversee professional development plans for early learning program staff including, but not limited to:

(A) Providing support to staff for creating and maintaining staff records;

(B) Setting educational goals with staff and locating or coordinating state-approved training opportunities for staff; and

(C) Observing and mentoring staff.

(4) **Center program supervisors** plan the early learning program services under the oversight of a center director or assistant director.

(a) A program supervisor must meet the following qualifications:

(i) Be at least eighteen years old;

(ii) ~~((If a director or assistant director has an ECE state certificate or equivalent as approved and verified in the electronic workforce registry by the department as follows:~~

~~((A) A program supervisor must complete))~~ Have an ECE state certificate or equivalent within five years of the date this section becomes effective or from the ~~((date))~~ time of hire or promotion, ~~((which ever is later;~~

~~((B) A program supervisor at the time of hire or promotion must have an ECE state certificate if the director or assistant director does not have an ECE state certificate.))~~ if a director or assistant director does not have an ECE state certificate or equivalent as required by this section;

(iii) Have two years of experience as a teacher of children in any age group enrolled in any early learning program;

(iv) Complete the applicable preservice requirements, pursuant to WAC 110-300-0105; and

(v) Have their continued professional development progress documented annually.

(b) A program supervisor performs the following duties:

(i) Guide the planning of curriculum philosophy, implementation, and environmental design of the early learning program;

(ii) Comply with foundational quality standards;

(iii) Act as a teacher or director as long as it does not interfere with the program supervisor's primary responsibilities; and

(iv) Manage the professional development plans and requirements for staff as needed.

(c) One person may be the center director, assistant director, and the program supervisor when qualified for all positions, provided that all requirements of subsection (3)(a) and (b) of this section are met.

(5) Any individual hired or promoted into a position detailed in subsections (2), (3), and (4) of this section who does not have an ECE state certificate or equivalent as required under subsections (3)(a)(ii), (b)(ii), and (4)(a)(ii) of this section must instead meet the following requirement as approved and verified in the electronic workforce registry by the department:

<u>If a center is licensed for this number of children:</u>	<u>Then the director, assistant director, or program supervisor must have completed at least this number of college quarter credits in early childhood education core competencies:</u>
<u>(a) 12 or fewer</u>	<u>10</u>
<u>(b) 13 to 24</u>	<u>25</u>
<u>(c) 25 or more</u>	<u>45</u>

(6) Lead teachers are responsible for implementing the center or family home early learning program. Lead teachers develop and provide a nurturing and responsive learning environment that meets the needs of enrolled children.

(a) A lead teacher must meet the following qualifications:

(i) Be at least eighteen years old;

(ii) Have a high school diploma or equivalent; and

(iii) Complete the applicable preservice requirements, pursuant to WAC 110-300-0105.

(b) A center lead teacher must meet the following requirements:

(i) Have an ECE initial certificate or equivalent as approved and verified in the electronic workforce registry by the department within five years of the date this section becomes effective, or five years from being employed or promoted into this position at any licensed early learning program;

(ii) Progress towards an ECE short certificate or equivalent. A center lead teacher hired after this chapter becomes effective must have an ECE short certificate within two years of receiving an ECE initial certificate, or seven years from

being employed or promoted into this position at any licensed early learning program; and

(iii) Have their professional development progress documented annually.

(c) A family home lead teacher must meet the following requirements:

(i) Have an ECE initial certificate or equivalent as approved and verified in the electronic workforce registry by the department within five years of the date this section becomes effective, or from being employed or promoted into this position at any licensed early learning program;

(ii) Prior to being in charge of their early learning program fifty percent or more of the time, a family home lead teacher must meet the qualifications of the family home licensee and complete or be registered in orientation training required in WAC 110-300-0105(1); and

(iii) Have their professional development progress documented annually.

~~((6))~~ (7) **Assistant teachers** help a lead teacher or licensee provide instructional support to children and implement developmentally appropriate programs in center or family home early learning programs.

(a) An assistant teacher must meet the following qualifications:

(i) Be at least eighteen years old;

(ii) Have a high school diploma or equivalent; and

(iii) Have a minimum of an ECE initial certificate or equivalent as approved and verified in the electronic workforce registry by the department within five years of the date this section becomes effective, or from being employed or promoted to this position at any licensed early learning program;

(iv) Complete the applicable preservice requirements, pursuant to WAC 110-300-0105; and

(v) Have their professional development progress documented annually.

(b) Assistant teachers may work alone with children with regular, scheduled, and documented oversight and on-the-job classroom training from the classroom's assigned lead teacher who is primarily responsible for the care of the same group of children for the majority of their day.

(c) For continuity of care, assistant teachers can act as a substitute lead teacher up to two weeks. If longer than two weeks, the provider must notify the department with a plan to manage the classroom.

~~((7))~~ (8) **Aides** provide classroom support to an assistant teacher, lead teacher, program supervisor, center director, assistant director, or family home licensee. Aides must meet the following qualifications:

(a) Be at least fourteen years old;

(b) Have a high school diploma or equivalent, or be currently enrolled in high school or an equivalent education program;

(c) Complete the applicable preservice requirements, pursuant to WAC 110-300-0105;

(d) Have their professional development progress documented annually; and

(e) Aides may be counted in the staff-to-child ratio if they are working under the continuous oversight of a lead

teacher, program supervisor, center director, assistant director, assistant teacher, or family home licensee.

(i) Aides working nineteen hours per month or less can count towards ratio with applicable preservice requirements pursuant to WAC 110-300-0105 and without in-service training requirements pursuant to WAC 110-300-0107 (1)(a).

(ii) Aides who work twenty hours or more per month with a cumulative twelve months of employment must complete applicable preservice requirements pursuant to WAC 110-300-0105 and in-service training pursuant to WAC 110-300-0107 (1)(a).

~~((8))~~ (9) **Other personnel** who do not directly care for children and are not listed in subsections (1) through ~~((7))~~ (8) of this section must meet the following qualifications:

(a) Complete and pass a background check, pursuant to chapter 110-06 WAC;

(b) Have a negative TB test, pursuant to WAC 110-300-0105; and

(c) Complete program based staff policies and training, pursuant to WAC 110-300-0110.

~~((9))~~ (10) **Volunteers** help at early learning programs. Volunteers must meet the following qualifications:

(a) Be at least fourteen years old (volunteers must have written permission to volunteer from their parent or guardian if they are under eighteen years old);

(b) Work under the continuous oversight of a lead teacher, program supervisor, center director, assistant director, assistant teacher, or family home licensee;

(c) Regular, ongoing volunteers may count in staff-to-child ratio if they:

(i) Complete and pass a background check, pursuant to chapter 110-06 WAC;

(ii) Complete a TB test, pursuant to WAC 110-300-0105;

(iii) Complete the training requirements, pursuant to WAC 110-300-0106;

(iv) Complete program based staff policies and training, pursuant to WAC 110-300-0110; and

(v) Have their professional development progress documented annually.

(d) Occasional volunteers must comply with (a) and (b) of this subsection. Occasional volunteers may include, but are not limited to, a parent or guardian helping on a field trip, special guest presenters, or a parent or guardian, family member, or community member helping with a cultural celebration.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0107 In-service training. (1) An early learning provider must complete ten hours of annual in-service training after twelve months of cumulative employment.

(a) Family home licensees, center directors, assistant directors, program supervisors, lead teachers, and assistant teachers must complete the department enhancing quality of early learning (EQEL) in-service training within thirty-six months of being hired in a licensed facility, unless the provider has completed a department approved alternative train-

ing. EQEL hours may count towards the ten hours of annual in-service training.

(b) Every thirty-six months, following the completion of EQEL or a department approved alternative training, family home licensees, center directors, assistant directors, and program supervisors, must complete a minimum of ten hours of in-service training "child development" and a minimum of ten hours of in-service training on "leadership practices."

(i) Child development training includes the following Washington state core competencies: Child growth and development, curriculum and learning environment, ongoing measurements of child progress, family and community partnerships, health, safety, nutrition, and interactions.

(ii) Leadership practices training includes the following Washington state core competencies: Program planning and development, professional development, and leadership.

(2) In-service training requirements of this chapter may be met by completing college courses that align with the Washington state core competencies. These courses must be delivered by a postsecondary institution and approved by the department.

(3) Only five in-service training hours that exceed the requirements of subsection (1) of this section may be carried over from one fiscal year to the next fiscal year.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0115 Staff records. (1) An early learning provider must establish a records system for themselves, household members, staff, and volunteers that complies with the requirements of this chapter. Early learning program staff records must be:

(a) Verified by the licensee, center director, assistant director, or program supervisor;

(b) Entered and maintained in the electronic workforce registry, if applicable. Paper records may be discarded once entered into the electronic workforce registry and confirmed by the department;

(c) Updated to delete staff names from the electronic workforce registry when no longer employed at the early learning program; and

(d) Kept on-site or in the program's administrative office in a manner that allows the department to review the records.

(2) Records for each early learning provider and staff member must include:

(a) First and last name;

(b) Date of birth;

(c) Job title;

(d) First and last day of employment, if applicable;

(e) Proof of professional credentials, requirements, and training for each early learning staff member, pursuant to WAC 110-300-0100 through 110-300-0110.

(3) A licensee, center director, assistant director, or program supervisor must maintain the following records for each early learning provider and program staff in a confidential manner. These records must be reviewable by the department and must include at a minimum:

(a) A copy of current government issued photo identification;

(b) Emergency contact information;

(c) Completed employment application or resume;

(d) Annual observation, evaluation, and feedback information; ~~((and))~~

(e) The licensee's Social Security number, federal EIN, or a written document stating the licensee does not possess either; and

(f) Immunization records including exemption documents (center early learning programs only).

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0120 Providing for personal, professional, and health needs of staff. (1) A licensee must provide for the personal and professional needs of staff by:

(a) Having a secure place to store personal belongings that is inaccessible to children;

(b) Having a readily accessible phone to use for emergency calls or to contact the parents of enrolled children; and

(c) Providing file and storage space for professional materials.

(2) An early learning provider must be excluded from the early learning premises when that provider's illness or condition poses a risk of spreading a harmful disease or compromising the health and safety of others. The illnesses and conditions that require a staff member to be excluded are pursuant to WAC 110-300-0205.

(3) If a staff person has not been vaccinated, or ~~((has not))~~ shown documented immunity to a vaccine preventable disease, that person may be required by the local health jurisdiction or the department to remain off-site during an outbreak of a contagious disease described in WAC 246-110-010~~((, as now and hereafter amended))~~. A center early learning program staff person or volunteer who has not been vaccinated against measles, mumps, and rubella or shown proof of immunity from measles must not be allowed on the center early learning premises except as provided in (a) and (b) of this subsection.

(a) A center early learning program may allow a person to be employed or volunteer on the center early learning premises for up to thirty calendar days if the person signs a written attestation that the employee or volunteer has received the measles, mumps, and rubella vaccine, or is immune from measles, but requires additional time to obtain and provide his or her immunization records. The required records must include immunization records indicating the employee or volunteer has received the measles, mumps, and rubella vaccine; or records that show proof of immunity from measles through documentation of laboratory evidence of antibody titer or a health care provider's attestation of the person's history of measles sufficient to provide immunity against measles.

(b) A center early learning program may allow a person to be employed or volunteer on the center early learning premises if the person provides the center early learning program with a written certification signed by a health care practitioner, as defined in RCW 28A.210.090(3), that the measles, mumps, and rubella vaccine is, in the practitioner's judgment, not advisable for the person. This subsection (3)(b)

does not apply if a person's health care practitioner determines that the measles, mumps, and rubella vaccine is no longer contraindicated.

(4) An early learning program's health policy, pursuant to WAC 110-300-0500, must include provisions for excluding or separating staff with a contagious disease described in WAC 246-110-010, as now and hereafter amended.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0205 Child, staff, and household member illness. (1) An early learning provider must observe all children for signs of illness when they arrive at the early learning program and throughout the day. Parents or guardians of a child should be notified, as soon as possible, if the child develops signs or symptoms of illness.

(2) If an early learning provider becomes ill, a licensee, center director, assistant director, or program supervisor must determine whether that person should be required to leave the licensed early learning space.

(3) When a child becomes ill, an early learning provider (or school nurse, if applicable) must determine whether the child should be sent home or separated from others. A provider must supervise the child to reasonably prevent contact between the ill child and healthy children.

(4) An ill child must be sent home or reasonably separated from other children if:

(a) The illness or condition prevents the child from participating in normal activities;

(b) The illness or condition requires more care and attention than the early learning provider can give;

(c) The required amount of care for the ill child compromises or places at risk the health and safety of other children in care; or

(d) There is a risk that the child's illness or condition will spread to other children or individuals.

(5) Unless covered by an individual care plan or protected by the ADA, an ill child, staff member, or other individual must be sent home or isolated from children in care if ~~((he or she))~~ the ill individual has:

(a) A fever 101 degrees Fahrenheit for children over two months (or 100.4 degrees Fahrenheit for an infant younger than two months) by any method, and behavior change or other signs and symptoms of illness (including sore throat, earache, headache, rash, vomiting, diarrhea);

(b) Vomiting two or more times in the previous twenty-four hours;

(c) Diarrhea where stool frequency exceeds two stools above normal per twenty-four hours for that child or whose stool contains more than a drop of blood or mucus;

(d) A rash not associated with heat, diapering, or an allergic reaction;

(e) Open sores or wounds discharging bodily fluids that cannot be adequately covered with a waterproof dressing or mouth sores with drooling;

(f) Lice, ringworm, or scabies. Individuals with head lice, ringworm, or scabies must be excluded from the child care premises beginning from the end of the day the head lice, ringworm, or scabies was discovered. The provider may

allow an individual with head lice, ringworm, or scabies to return to the premises after receiving the first treatment; or

(g) A child who appears severely ill, which may include lethargy, persistent crying, difficulty breathing, or a significant change in behavior or activity level indicative of illness.

(6) At the first opportunity, but in no case longer than twenty-four hours of learning that an enrolled child, staff member, volunteer, or household member has been diagnosed by a health care professional with a contagious disease ~~((listed in))~~ pursuant to WAC 246-110-010(3), as now and hereafter amended, an early learning provider must provide written notice to the department, the local health jurisdiction, and the parents or guardians of the enrolled children.

(7) An early learning provider must not take ear or rectal temperatures to determine a child's body temperature.

(a) Providers must use developmentally appropriate methods when taking infant or toddler temperatures (for example, digital forehead scan thermometers or underarm ~~((auxiliary))~~ methods);

(b) Oral temperatures may be taken for preschool through school-age children if single-use covers are used to prevent cross contamination; and

(c) Glass thermometers containing mercury must not be used.

(8) An early learning provider may readmit a child, staff member, volunteer or household member into the early learning program area with written permission of a health care provider or health jurisdiction stating the individual may safely return after being diagnosed with a contagious disease ~~((listed in))~~ pursuant to WAC 246-110-010(3), as now and hereafter amended.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0335 Physical restraint. (1) An early learning provider must have written physical restraint protocols pursuant to WAC 110-300-0490, and implement such protocols only when appropriate and after complying with all requirements of WAC 110-300-0330 and 110-300-0331.

(2) Physical restraint must only be used if a child's safety or the safety of others is threatened, and must be:

(a) Limited to holding a child as gently as possible to accomplish restraint;

(b) Limited to the minimum amount of time necessary to control the situation;

(c) Developmentally appropriate; and

(d) Only performed by early learning providers trained in a restraint technique pursuant to WAC 110-300-0106(9).

(3) No person may use bonds, ties, blankets, straps, car seats, high chairs, activity saucers, or heavy weights (including an adult sitting on a child) to physically restrain children.

(4) Licensees, center directors, assistant directors, program supervisors, lead teachers or trained staff must remove him or herself from a situation if they sense a loss of their own self-control and concern for the child when using a restraint technique if another early learning provider is present. If an early learning provider observes another staff using inappropriate restraint techniques, the staff must intervene.

(5) If physical restraint is used, staff must:

(a) Report the use of physical restraint ~~((to the child's parent or guardian as soon as possible, but no later than the release of the child at the end of the day, and to the department within twenty-four hours))~~, pursuant to WAC 110-300-0475 ~~(2)(f)~~;

(b) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate;

(c) Document the incident in the child's file, including the date, time, early learning program staff involved, duration and what happened before, during and after the child was restrained;

(d) Develop a written plan with input from the child's primary care or mental health provider, and the parents or guardians, to address underlying issues and reduce need for further physical restraint if:

(i) Physical restraint has been used more than once; and

(ii) A plan is not already a part of the child's individual care plan.

(e) Notify the department when a written plan has been developed.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0420 Prohibited substances. (1) Chapter 70.160 RCW prohibits smoking in public places and places of employment.

(2) Pursuant to RCW 70.160.050, an early learning provider must:

(a) Prohibit smoking, vaping, or similar activities in licensed indoor space, even during nonbusiness hours;

(b) Prohibit smoking, vaping, or similar activities in licensed outdoor space unless:

(i) Smoking, vaping or similar activities occurs during nonbusiness hours; or

(ii) In an area for smoking or vaping tobacco products that is not a "public place" or "place of employment," as defined in RCW 70.160.020.

(c) Prohibit smoking, vaping, or similar activities in motor vehicles used to transport enrolled children;

(d) Prohibit smoking, vaping, or similar activities by any provider who is supervising children, including during field trips;

(e) Prohibit smoking, vaping, or similar activities within twenty-five feet from entrances, exits, operable windows, and vents, pursuant to RCW 70.160.075; and

(f) Post "no smoking or vaping" signs. Signs must be clearly visible and located at each building entrance used as part of the early learning program.

(3) An early learning provider must:

(a) Prohibit any person from consuming or being under the influence of alcohol on licensed space during business hours;

(b) Prohibit any person within licensed space from consuming or being under the influence of illegal drugs or ~~((mis-used))~~ prescription drugs to the extent that it interferes with the care for children as required by this chapter;

(c) Store any tobacco or vapor products, or the packaging of tobacco or vapor products in a space that is inaccessible to children;

(d) Prohibit children from accessing cigarette or cigar butts or ashes;

(e) Store any cannabis or associated paraphernalia out of the licensed space and in a space that is inaccessible to children; and

(f) Store alcohol in a space that is inaccessible to children (both opened and closed containers).

(4) A center early learning provider must prohibit any person from using, consuming, or being under the influence of cannabis in any form on licensed space.

(5) A family home early learning provider must prohibit any person from using, consuming, or being under the influence of cannabis products in any form on licensed space during business hours.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0470 Emergency preparedness plan.

(1) An early learning provider must have and follow a written emergency preparedness plan. The plan must be reviewed and approved by the department prior to when changes are made. Emergency preparedness plans must:

(a) Be designed to respond to fire, natural disasters, and other emergencies that might affect the early learning program;

(b) Be specific to the early learning program and able to be implemented during hours of operation;

(c) Address what the provider would do if ~~((he or she))~~ the provider has an emergency and children may be left unsupervised;

(d) Address what the early learning program must do if parents are not able to get to their children for up to three days;

(e) Must follow requirements in chapter 212-12 WAC, Fire marshal standards, as now or hereafter amended and the state fire marshal's office requirements if a center early learning program;

(f) Be reviewed at program orientation, annually with all early learning program staff with documented signatures, and when the plan is updated; and

(g) Be reviewed with parents or guardians when a child is enrolled and when the plan is updated.

(2) The written emergency preparedness plan must cover at a minimum:

(a) Disaster plans, including fires that may require evacuation:

(i) An evacuation floor plan that identifies room numbers or names of rooms, emergency exit pathways, emergency exit doors, and ~~((for family home based programs,))~~ emergency exit windows ~~((if applicable))~~ for family-home based programs as described in WAC 51-51-0326;

(ii) Methods to be used for sounding an alarm and calling 911;

(iii) Actions to be taken by a person discovering an emergency;

(iv) How the early learning provider will evacuate children, especially those who cannot walk independently. This may include infant evacuation cribs (for center early learning programs), children with disabilities, functional needs requirements, or other special needs;

(v) Where the alternate evacuation location is;

(vi) What to take when evacuating children, including:

(A) First-aid kit(s);

(B) Copies of emergency contact information;

(C) Child medication records; and

(D) Individual children's medication, if applicable.

(vii) How the provider will maintain the required staff-to-child ratio and account for all children;

(viii) How parents or guardians will be able to contact the early learning program; and

(ix) How children will be reunited with their parents or guardians after the event.

(b) Earthquake procedures including:

(i) What a provider will do during an earthquake;

(ii) How a provider will account for all children; and

(iii) How a provider will coordinate with local or state officials to determine if the licensed space is safe for children after an earthquake.

(c) Public safety related lockdown scenarios where an individual at or near an early learning program is harming or attempting to harm others with or without a weapon. This plan must include lockdown of the early learning program or shelter-in-place steps including:

(i) How doors and windows will be secured to prevent access, if needed; and

(ii) Where children will safely stay inside the early learning program.

(d) How parents or guardians will be contacted after the emergency ends.

(3) An early learning provider must keep on the premises a three day supply of food, water, and life-sustaining medication for the licensed capacity of children and current staff for use in case of an emergency.

(4) An early learning provider must practice and record emergency drills with staff and children as follows:

(a) Fire and evacuation drill once each calendar month;

(b) Earthquake, lockdown, or shelter-in-place drill once every three calendar months;

(c) Emergency drills must be conducted with a variety of staff and at different times of the day, including in the evening and during overnight hours for early learning programs that care for children during those hours; and

(d) Drills must be recorded on a department form and include:

(i) The date and time of the drill;

(ii) The number of children and staff who participated;

(iii) The length of the drill; and

(iv) Notes about how the drill went and how it may be improved.

(5) In areas where local emergency plans are already in place, such as school districts, an early learning program may adopt or amend such procedures when developing their own plan.

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0475 Duty to protect children and report incidents. (1) Pursuant to RCW 26.44.030, when an early learning provider has reasonable cause to believe that a child has suffered abuse or neglect, that provider must report such incident, or cause a report to be made, to the proper law enforcement agency or the department. "Abuse or neglect" has the same meaning here as in RCW 26.44.020.

(2) An early learning provider must report by ~~((phone upon knowledge of the following to:))~~ telephone to the listed individuals, department, and other government agencies when the provider knows or has reason to know of an act, event, or occurrence described in (a) through (f) of this subsection.

(a) Law enforcement or the department at the first opportunity, but in no case longer than forty-eight hours:

(i) The death of a child while in the early learning program's care or the death from injury or illness that may have occurred while the child was in care;

(ii) A child's attempted suicide or talk about attempting suicide;

(iii) Any suspected physical, sexual or emotional child abuse;

(iv) Any suspected child neglect, child endangerment, or child exploitation;

(v) A child's disclosure of sexual or physical abuse; or

(vi) Inappropriate sexual contact between two or more children.

(b) Emergency services (911) immediately, and to the department within twenty-four hours:

(i) A child missing from care, triggered as soon as staff realizes the child is missing;

(ii) A medical emergency that requires immediate professional medical care;

(iii) A child who is given too much of any oral, inhaled, or injected medication;

(iv) A child who took or received another child's medication;

(v) A fire or other emergency;

(vi) Poisoning or suspected poisoning; or

(vii) Other dangers or incidents requiring emergency response.

(c) Washington poison center immediately after calling 911, and to the department within twenty-four hours:

(i) A poisoning or suspected poisoning;

(ii) A child who is given too much of any oral, inhaled, or injected medication; or

(iii) A child who took or received another child's medication;

(iv) The provider must follow any directions provided by Washington poison center.

(d) The local health jurisdiction or the department of health immediately, and to the department within twenty-four hours about an occurrence of food poisoning or reportable contagious disease as defined in chapter 246-110 WAC, as now or hereafter amended;

(e) The department at the first opportunity, but in no case longer than twenty-four hours, upon knowledge of any per-

son required by chapter 110-06 WAC to have a change in their background check history due to:

(i) A pending charge or conviction for a crime listed in chapter 110-06 WAC;

(ii) An allegation or finding of child abuse, neglect, maltreatment or exploitation under chapter 26.44 RCW or chapter 388-15 WAC;

(iii) An allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or

(iv) A pending charge or conviction of a crime listed in the director's list in chapter 110-06 WAC from outside Washington state, or a "negative action" as defined in RCW 43.216.010.

(f) A child's parent or guardian as soon as possible, but no later than the release of the child at the end of the day, and to the department within twenty-four hours, about using physical restraint on a child as described in WAC 110-300-0335.

(3) In addition to reporting to the department by phone or email, an early learning provider must submit a written incident report of the following on a department form within twenty-four hours:

(a) Situations that required an emergency response from emergency services (911), Washington poison center, or department of health;

(b) Situations that occur while children are in care that may put children at risk including, but not limited to, inappropriate sexual touching, neglect, physical abuse, maltreatment, or exploitation; and

(c) A serious injury to a child in care.

(4) An early learning provider must immediately report to the parent or guardian:

(a) Their child's death, serious injury, need for emergency or poison services; or

(b) An incident involving their child that was reported to the local health jurisdiction or the department of health.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-305-2050 Child records—Contents. (1) An enrollment record is required for every child who is enrolled and counted in capacity. Each child's enrollment record must include the following:

(a) The child's beginning enrollment date;

(b) End of enrollment date for children no longer in the licensee's care;

(c) The child's birth date;

~~(d)((i)) The child's ((current)) immunization records((; on a DOH certificate of immunization status (CIS) form signed by the parent or guardian; or~~

~~(ii) A DOH certificate of exemption (COE) form signed by the parent for religious, philosophical, or personal exemption; or~~

~~(iii) A DOH certificate of exemption (COE) form signed by the parent and a health care professional for a medical exemption)) and immunization exemption records;~~

(e) The child's health history that includes:

(i) Known health conditions such as allergies, asthma, and diabetes;

(ii) Date of last physical exam; and

(iii) Date of last dental exam((;)).

(f) The names, phone numbers, and addresses of persons authorized to pick up the child;

~~(g) Emergency contacts((; - If no emergency contact is available, a written emergency contact plan may be accepted));~~

(h) Parent or guardian information including name, phone numbers, address, and contact information for reaching the family while the child is in care;

~~(i) Medical and dental care provider names and contact information, if the child has providers((; - If the child has no medical or dental provider, the parent or guardian must provide a written plan for medical or dental injury or incident));~~ and

(j) Consent to seek medical care and treatment of the child in the event of injury or illness, signed by the child's parent or guardian.

(2)(a) The child's immunization records and immunization exemption records must include the following:

(i) The child's current immunization record, on a DOH certificate of immunization status (CIS) form, signed by the parent or guardian;

(ii) A DOH certificate of exemption (COE) form signed by the parent or legal guardian that declares a religious belief, philosophical, or personal objection immunization exemption authorized under RCW 28A.210.090 (1)(b) or (c); and

(iii) A DOH certificate of exemption (COE) form signed by the parent and a health care practitioner for a medical exemption authorized under RCW 28A.210.090 (1)(a).

(b) A philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine under this section.

(c) If no emergency contact is available as described in subsection (1)(g) of this section, a written emergency contact plan may be accepted.

(d) If the child has no medical or dental provider as discussed in subsection (1)(i) of this section, the parent or guardian must provide a written plan for medical and dental injuries or incidents.

(3) If applicable, a child's records must include:

~~(a) Injury/incident reports (see WAC ((470-297-3575 and 470-297-3600)) 110-305-3575 and 110-305-3600);~~

~~(b) A medication authorization and administration log (see WAC ((470-297-3375)) 110-305-3375);~~

~~(c) A plan for special or individual needs of the child (see WAC ((470-297-0050)) 110-305-0050); and~~

~~(d) Documentation of use of physical restraint (see WAC ((470-297-6250)) 110-305-6250).~~

~~((3)) (4) The child's records must include signed parent permissions (see WAC ((470-297-6400)) 110-305-6400) as applicable for:~~

~~(a) Field trips;~~

~~(b) Transportation; and~~

~~(c) Visiting health professionals providing services to the child at the child care program site.~~

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-305-2325 Notifiable conditions. (1) The licensee or designee must report a staff person, volunteer, or child diagnosed with a notifiable condition as defined in chapter 246-101 WAC to the local health jurisdiction or the state department of health.

(2) The licensee or designee must contact the local health jurisdiction for the list of notifiable conditions and reporting requirements.

(3) A person must be excluded from the program when diagnosed with a notifiable condition and must not return to the program until approved to do so by the local health officer. A licensed school age child care center staff person or volunteer who has not been vaccinated against or shown proof of immunity to measles, mumps, or rubella must not be allowed on the school age child care center premises except as provided in (a) and (b) of this subsection.

(a) A licensed school age child care center program may allow a person to be employed or volunteer on the school age child care center premises for up to thirty calendar days if the person signs a written attestation attesting to having received the measles, mumps, and rubella vaccine, or having immunity from measles, mumps, and rubella, but requiring additional time to obtain and provide immunization records. The required records must include immunization records indicating the employee or volunteer has received the measles, mumps, and rubella vaccine; or records that show proof of immunity from measles through documentation of laboratory evidence of antibody titer or a health care provider's attestation of the person's history of measles sufficient to provide immunity against measles.

(b) A school age child care center program may allow a person to be employed or volunteer on the school age child care center premises if the person provides the school age child care center with a written certification signed by a health care practitioner, as defined in RCW 28A.210.090(3), that the measles, mumps, and rubella vaccine is, in the practitioner's judgment, not advisable for the person. This subsection (3)(b) of this section does not apply if a person's health care practitioner determines that the measles, mumps, and rubella vaccine is no longer contraindicated.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-305-3250 Immunization tracking. The licensee or designee is required to track each child's immunization status in accordance with WAC 246-105-060. The child care program must:

(1) Keep all DOH approved forms described in WAC 246-105-050 for each enrolled child(~~(s)~~).

(2) Keep a list of currently enrolled children with ~~((medical, religious, philosophical, or personal))~~ an immunization exemption(~~(s)~~) authorized under RCW 28A.210.080 and 28A.210.090. This list must be sent to the local health department upon request(~~(s)~~).

(3) Return the department of health certificate of immunization status (CIS) or applicable form to the parent when the child is withdrawn from the child care program. A child

care program may not withhold from the parent a child's health department-approved form for any reason, including nonpayment of child care program fees(~~(s)~~ and).

(4) Provide access to immunization records of each child enrolled to agents of the state or local health department.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-305-3300 Immunizations—Exemption. ~~((The))~~ (1) A school age child care center program may accept a child without any immunizations if the parent or guardian provides a DOH certificate of exemption (COE) form ~~((indicating a medical, religious, philosophical, or personal exemption as provided in WAC 246-105-060))~~ under the following circumstances:

(a) A COE form signed by the parent or legal guardian that declares a religious belief, philosophical, or personal objection immunization exemption authorized under RCW 28A.210.090 (1)(b) or (c); or

(b) A COE form signed by a health care practitioner for a medical exemption authorized under RCW 28A.210.090 (1)(a).

(2) A philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.