PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: June 18, 2019
TIME: 3:53 PM

WSR 19-13-093

Agency: Department of Health- Dental Quality Assurance Commission

☐ **Original Notice**
☒ **Supplemental Notice to WSR** 19-03-072
☐ **Continuance of WSR**

☒ **Preproposal Statement of Inquiry was filed as WSR** 18-04-078 **; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR ; or**
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**
☐ **Proposal is exempt under RCW .**

Title of rule and other identifying information: (describe subject) WAC 246-817-550 Acts that may be performed by licensed dental hygienists under general supervision. Supplemental notice to WSR 19-03-072. The Dental Quality Assurance Commission (commission) is proposing rule amendments add identified tasks from WAC 246-817-520 acts that may be performed by dental assistants under close supervision to the list of allowable tasks that a dentist can delegate to dental hygienists under general supervision. This supplemental proposal removes orthodontic tasks.

Hearing location(s):			
Date:	**Time:**	**Location:** (be specific)	**Comment:**
07/26/2019	9:35 a.m.	Department of Health Point Plaza East, Room 152/153 310 Israel Rd. SE Tumwater, WA 98501	

Date of intended adoption: 07/26/2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:
Name: Jennifer Santiago
Address: PO Box 47852
Olympia, WA 98504
Email: https://fortress.wa.gov/doh/policyreview
Fax: 360-236-2901
Other:
By (date) 07/22/2019

Assistance for persons with disabilities:
Contact Jennifer Santiago
Phone: 360-236-4893
Fax: 360-236-2901
TTY: (360) 833-6388 or 711
Email: jennifer.santiago@doh.wa.gov
Other:
By (date) 07/22/2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule amendments updates the listing of allowable duties a dentist may delegate to a licensed dental hygienist under general supervision with the exception of orthodontic tasks that were previously proposed. A licensed dental hygienist has appropriate education and training to competently perform the tasks in the proposed rule amendments after a dentist has examined and diagnosed the patient and provided subsequent instructions to be performed without the dentist physically present in the office. Additionally, several tasks in the proposed rule amendments may provide more opportunities for teledentistry when a dentist is not required to be on site. This would allow a dentist and dental hygienist to provide dental care to patients unable to be physically in the dental office.

Reasons supporting proposal: The commission considered a rule request in July 2017 to allow dental hygienists to perform certain tasks under general supervision that are typically completed by dental assistants under close supervision. Close supervision requires the dentist to be physically present in the treatment facility during the performance of a delegated task while general supervision does not. Identifying a list of acceptable tasks that may be delegated by a licensed dentist to a licensed dental hygienist in rule establishes enforceable practice standards while ensuring patient safety. Because a general supervision list of tasks already exists in current rule, rulemaking is necessary to amend the rule to include proposed tasks which are currently allowed under close supervision. Stakeholder comments received during the March 1, 2019 hearing expressed concerns that several of the orthodontic tasks were inappropriate to delegate under general supervision. The commission determined four of the six orthodontic tasks require examination, diagnosis, and treatment planning each time the task was performed.

The commission changed the original proposal to delete the following:
Prepare teeth for the bonding of orthodontic appliances.
Bond attachments for clear removable orthodontic aligners.
Remove and replace archwires and orthodontic wires.
Remove fixed orthodontic appliances, orthodontic cement, and orthodontic bonded resin material.

Statutory authority for adoption: RCW 18.32.0365 and RCW 18.29.050

Statute being implemented: RCW 18.32.0365 and RCW 18.29.050

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Dental Quality Assurance Commission

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jennifer Santiago	111 Israel Rd. SE, Tumwater, WA 98501	360-236-4893
Implementation:	Jennifer Santiago	111 Israel Rd. SE, Tumwater, WA 98501	360-236-4893
Enforcement:	Jennifer Santiago	111 Israel Rd. SE, Tumwater, WA 98501	360-236-4893

Is a school district fiscal impact statement required under RCW 28A.305.135? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name: Jennifer Santiago

Address: PO Box 47852
Olympia, WA 98504-7852
Phone: 360-236-4893
Fax: 360-236-2901
TTY: (360) 833-6388 or 711
Email: jennifer.santiago@doh.wa.gov
Other:

☐ No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- ☐ RCW 34.05.310 (4)(b) (Internal government operations)
- ☐ RCW 34.05.310 (4)(c) (Incorporation by reference)
- ☐ RCW 34.05.310 (4)(d) (Correct or clarify language)
- ☐ RCW 34.05.310 (4)(e) (Dictated by statute)
- ☐ RCW 34.05.310 (4)(f) (Set or adjust fees)
- ☐ RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☒ No Briefly summarize the agency's analysis showing how costs were calculated. The proposed rule does not impose costs on businesses.

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: 06/18/2019	**Signature:**
Name: Julia Richman, DDS	
Title: Dental Quality Assurance Commission Chairperson	

AMENDATORY SECTION (Amending WSR 17-01-045, filed 12/13/16, effective 1/13/17)

WAC 246-817-550 Acts that may be performed by licensed dental hygienists under general supervision. A dentist may allow a dental hygienist licensed under chapter 18.29 RCW to perform the following acts under the dentist's general supervision:

(1) Head and neck examination.

(2) Oral inspection and measuring of periodontal pockets, with no diagnosis.

(3) Record health histories.

(4) Take and record blood pressure and vital signs.

(5) Take intraoral and extraoral radiographs.

(6) Take intraoral and extraoral photographs.

(7) Patient education in oral hygiene.

((~~(4) Take intra-oral and extra-oral radiographs.~~

~~(5)~~)) (8) Give preoperative and postoperative instructions.

(9) Oral prophylaxis and removal of deposits and stains from the surfaces of the teeth.

(10) Give fluoride treatments.

(11) Apply topical anesthetic agents.

(12) Deliver oral antibiotic prophylaxis as prescribed by a dentist.

(13) Place and remove the rubber dam.

(14) Apply topical preventive or prophylactic agents.

((~~(6)~~)) (15) Administer local anesthetic agents and adjunctive procedures if all conditions in (a) through (d) of this subsection are met. Adjunctive procedures include local anesthetic reversal agents and buffered anesthetic.

(a) The patient is at least eighteen years of age;

(b) The patient has been examined by the delegating dentist within the previous twelve months;

(c) There has been no change in the patient's medical history since the last examination. If there has been a change in the patient's medical history within that time, the dental hygienist must consult with the dentist before administering local anesthetics;

(d) The delegating dentist who performed the examination has approved the patient for the administration of local anesthetics by a dental hygienist under general supervision and documented this approval in the patient's record;

(e) If any of the conditions in (a) through (d) of this subsection are not met, then close supervision is required.

((~~(7)~~)) (16) Perform subgingival and supragingival scaling.

(17) Perform root planing.

(18) Apply sealants.

(19) Polish and smooth restorations.

((~~(8) Oral prophylaxis and removal of deposits and stains from the surfaces of the teeth.~~

~~(9) Record health histories.~~

~~(10) Take and record blood pressure and vital signs.~~

~~(11) Perform sub-gingival and supra-gingival scaling.~~

~~(12) Perform root planing.~~

~~(13) Apply sealants.~~

~~(14) Apply topical anesthetic agents.~~

~~(15) Deliver oral antibiotic prophylaxis as prescribed by a dentist.~~

~~(16)~~)) (20) Sterilize equipment and disinfect operatories.

(21) Place retraction cord.

(22) Take impressions, bite registration, or digital scans of the teeth and jaws for:

(a) Diagnostic and opposing models;

(b) Fixed and removable orthodontic appliances, occlusal guards, bleaching trays, and fluoride trays; and

(c) Temporary indirect restorations such as temporary crowns.

(23) Take a facebow transfer for mounting study casts.

(24) Fabricate and deliver bleaching and fluoride trays.

(25) Fabricate, cement, and remove temporary crowns or temporary bridges.

(26) Place a temporary filling such as zinc oxide-eugenol or ZOE after diagnosis and examination by the dentist.

(27) Remove excess cement after the dentist has placed a permanent or temporary inlay, crown, bridge or appliance, or around orthodontic bands.

(28) Pack and medicate extraction areas.

(29) Place periodontal packs.

(30) Remove periodontal packs or sutures.

(31) Select denture shade and mold.

(32) Place and remove orthodontic separators.

(33) Select and fit orthodontic bands, try in fixed or removable orthodontic appliances prior to the dentist cementing or checking the appliance.