



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: August 10, 2020

TIME: 8:26 AM

WSR 20-17-036

Agency: Department of Health- Dental Quality Assurance Commission

Original Notice
 Supplemental Notice to WSR
 Continuance of WSR
 Preproposal Statement of Inquiry was filed as WSR ; 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 246-817-010, 246-817-110, 246-817-135, 246-817-190, 246-817-195, 246-817-200, 246-817-205, and 246-817-220 repeal of AIDS education and training requirements from registration, certification, and licensure rules. Engrossed Substitute House Bill (ESHB) 1551 (chapter 76, Laws of 2020) repealed AIDS education and training requirements for health professionals obtaining registration, certification, and licensure. The Dental Quality Assurance Commission is proposing to repeal eight requirements under chapter 246-817 WAC that reference or require AIDS education and training for registration, certification, or license.

| Hearing location(s): | | | |
|-----------------------------|--------------|---|-----------------|
| Date: | Time: | Location: (be specific) | Comment: |
| 10/23/2020 | 8:35 a.m. | In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Dental Quality Assurance Commission will not provide a physical location for this hearing to promote social distancing and the safety of the citizens of Washington State. A virtual public hearing, without physical meeting space, will be held instead. To access the meeting: Please join meeting from your computer, tablet, or smartphone. Please register for Dental Quality Assurance Commission on Oct 23, 2020 8:30 AM PDT at: https://attendee.gotowebinar.com/register/8090024445858444816 | |

Date of intended adoption: 10/23/2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Jennifer Santiago

Address: PO Box 47852

Olympia, WA 98504-7852

Email: <https://fortress.wa.gov/doh/policyreview>

Fax: 360-236-2901

Other:

By (date) 10/09/2020

Assistance for persons with disabilities:

Contact Jennifer Santiago

Phone: 360-236-4893

Fax: 360-236-2901

TTY: 711

Email: jennifer.santiago@doh.wa.gov

Other: dental@doh.wa.gov

By (date) 10/09/2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed amendments will repeal requirements and make other housekeeping changes in each rule requiring AIDS education and training, this includes:

WAC 246-817-010 - Definitions of "Acquired immunodeficiency syndrome" and "Office on AIDS"

WAC 246-817-110 (6) - Dental licensure-Initial eligibility and application requirements

WAC 246-817-135 (6) - Dental licensure without examination-Eligibility and application requirements.

WAC 246-817-190 (3) - Dental assistant registration.

WAC 246-817-195 (6) - Licensure requirements for expanded function dental auxiliaries (EFDAs).

WAC 246-817-200 (4) - Licensure without examination for expanded function dental auxiliary (EFDA).

WAC 246-817-205 (3)(e) - Dental anesthesia assistant certification requirements.

WAC 246-817-220 (4)(h) - Inactive license

Reasons supporting proposal: ESHB 1551 repealed RCW 70.24.270 Health professionals-Rules for AIDS education and training.

As a result of ESHB 1551, the Department of Health will repeal chapter 246-12 WAC, Part 8 - AIDS prevention and information education requirements. The Dental Quality Assurance Commission (dental commission) proposes to repeal requirements in eight rules that require AIDS prevention and information education. These requirements detail the definitions, acceptable training and education, and documentation requirements for health professionals and employees concerning AIDS Profession-specific rules including the number of hours of training required. The dental commission is proposing to no longer require AIDS education, training, or documentation in rule in support of legislation and reducing stigma towards people living with HIV/AIDS (PLWH).

When Washington adopted statutes concerning AIDS, very little was known about the disease compared to today. Now, AIDS is so treatable and preventable, Governor Inslee issued a proclamation in 2014 supporting End AIDS Washington; a statewide initiative to reduce new HIV cases by 50% by the end of 2020. Part of this effort includes reducing stigma, which includes updating state law. ESHB 1551 repeals statutes concerning AIDS education and training for emergency medical personnel, health professionals, and health care facility employees helps reduce stigma towards PLWH by not singling out AIDS as an exceptional disease that requires specific training and education separate from other health conditions.

Statutory authority for adoption: RCW 18.32.002 and RCW 18.32.0365

Statute being implemented: ESHB 1551 repeal of RCW 70.24.270

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

No: Please explain: The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute. ESHB 1551 repealed RCW 70.24.270, the statutory authority for requiring AIDS education and training.

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:

| | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language) | <input type="checkbox"/> 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: ESHB 1551 repealed RCW 70.24.270, the statutory authority for requiring AIDS education and training.

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.

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: 08/10/2020 | Signature: |
| Name: Aaron Stevens, DMD |  |
| Title: Dental Quality Assurance Commission Chairperson | |

AMENDATORY SECTION (Amending WSR 08-23-019, filed 11/6/08, effective 12/7/08)

WAC 246-817-010 Definitions. The following general terms are defined within the context used in this chapter.

~~((**"Acquired immunodeficiency syndrome"** or **"AIDS"** means the clinical syndrome of HIV-related illness as defined by the board of health by rule.))~~

"Clinics" are locations situated away from the School of Dentistry on the University of Washington campus, as recommended by the dean in writing and approved by the DQAC.

"CITA" means Council of Interstate Testing Agencies, a regional dental testing agency that provides clinical dental testing services.

"CRDTS" means Central Regional Dental Testing Services, a regional testing agency that provides clinical dental testing services.

"Department" means the department of health.

"DQAC" means the dental quality assurance commission as established by RCW 18.32.0351.

"Facility" is defined as the building housing the School of Dentistry on the University of Washington campus, and other buildings, designated by the dean of the dental school and approved by the DQAC.

"NERB" means the Northeast Regional Board, a regional testing agency that provides clinical dental testing services.

~~((**"Office on AIDS"** means that section within the department of health or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.))~~

"Secretary" means the secretary of the department of health or the secretary's designee.

"SRTA" means the Southern Regional Testing Agency, a regional testing agency that provides clinical dental testing services.

"WREB" means the Western Regional Examining Board, a national testing agency that provides clinical dental testing services.

AMENDATORY SECTION (Amending WSR 19-15-094, filed 7/22/19, effective 8/22/19)

WAC 246-817-110 Dental licensure—Initial eligibility and application requirements. To be eligible for Washington state dental licensure, the applicant must provide:

(1) A completed application and fee. The applicant must submit a signed application and required fee as defined in WAC 246-817-990;

(2) Proof of graduation from a dental school approved by the DQAC:

(a) DQAC recognizes only those applicants who are students or graduates of dental schools in the United States or Canada, approved, conditionally or provisionally, by the Commission on Dental Accreditation of the American Dental Association. The applicant must have received, or will receive, a Doctor of Dental Surgery (DDS) or Doctor of Dental Medicine (DMD) degree from that school;

(b) Other dental schools which apply for DQAC approval and which meet these adopted standards to the DQAC's satisfaction may be approved, but it is the responsibility of a school to apply for approval

and of a student to ascertain whether or not a school has been approved;

(3) Proof of successful completion of the Integrated National Board Dental Examination, Parts I and II of the National Board Dental Examination, or the Canadian National Dental Examining Board Examination. An original scorecard or a certified copy of the scorecard shall be accepted. Exception: Dentists who obtained initial licensure in a state prior to that state's requirement for successful completion of the national boards, may be licensed in Washington, provided that the applicant provide proof that their original state of licensure did not require passage of the national boards at the time they were initially licensed. Applicants need to meet all other requirements for licensure;

(4) Proof of graduation from an approved dental school. The only acceptable proof is an official, posted transcript sent directly from such school, or in the case of recent graduates, a verified list of graduating students submitted directly from the dean of the dental school. Graduates of nonaccredited dental schools must also meet the requirements outlined in WAC 246-817-160;

(5) A complete listing of professional education and experience including college or university (predental), and a complete chronology of practice history from the date of dental school graduation to present, whether or not engaged in activities related to dentistry;

(6) ~~((Proof of completion of seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8;~~

((7))) Proof of malpractice insurance if available, including dates of coverage and any claims history;

((8))) (7) Written certification of any licenses held, submitted directly from another licensing entity, and including license number, issue date, expiration date and whether applicant has been the subject of final or pending disciplinary action;

((9))) (8) Proof of successful completion of:

(a) An approved practical/clinical examination under WAC 246-817-120; or

(b) A qualifying residency program under RCW 18.32.040 (3)(c);

((10))) (9) Proof of successful completion of an approved written jurisprudence examination;

((11))) (10) A recent 2" x 2" photograph, signed, dated, and attached to the application;

((12))) (11) Authorization for background inquiries to other sources may be conducted as determined by the DQAC((7)) including, but not limited to, the national practitioner data bank and drug enforcement agency. Applicants are responsible for any fees incurred in obtaining verification of requirements;

((13))) (12) Any other information for each license type as determined by the DQAC.

AMENDATORY SECTION (Amending WSR 16-16-039, filed 7/26/16, effective 8/26/16)

WAC 246-817-135 Dental licensure without examination—Eligibility and application requirements. For individuals holding a dentist credential in another U.S. state or territory, to be eligible for

Washington state dental license without examination, the applicant must provide:

- (1) A completed application on forms provided by the secretary;
- (2) Applicable fees under WAC 246-817-990;
- (3) A verification by a U.S. state or territory board of dentistry (or equivalent authority) of an active credential to practice dentistry, without restrictions, and whether the applicant has been the subject of final or pending disciplinary action;
- (4) Proof of graduation from an approved dental school under WAC 246-817-110 (2)(a):
 - (a) The only acceptable proof is an official, posted transcript sent directly from such school;
 - (b) Graduates of nonapproved dental schools must meet the requirements under RCW 18.32.215 (1)(b).
- (5) Proof that the applicant is currently engaged in the practice of dentistry:
 - (a) Dentists serving in the United States federal services as described in RCW 18.32.030(2) must provide documentation from their commanding officer regarding length of service, duties and responsibilities, and any adverse actions or restrictions;
 - (b) Dentists employed by a dental school approved under WAC 246-817-110 (2)(a) must provide documentation from the dean or appropriate administrator of the institution regarding the length and terms of employment, duties and responsibilities, and any adverse actions or restrictions;
 - (c) Dentists in a dental residency program must provide documentation from the director or appropriate administrator of the residency program regarding length of residency, duties and responsibilities, and any adverse actions or restrictions; or
 - (d) Dentists practicing dentistry for a minimum of twenty hours per week for the four consecutive years preceding application, in another U.S. state or territory must provide:
 - (i) Address of practice location(s);
 - (ii) Length of time at the location(s);
 - (iii) A letter from all malpractice insurance carrier(s) defining years when insured and any claims history;
 - (iv) Federal or state tax numbers; and
 - (v) DEA numbers if any.
- (6) ~~((Proof of seven clock hours of AIDS education and training as required by chapter 246-12 WAC, Part 8;~~
- (7)) Proof of successful completion of a commission approved written jurisprudence examination;
- ((8)) ~~(7)~~ A recent 2" x 2" photograph, signed, dated, and attached to the application; and
- ((9)) ~~(8)~~ Authorization for background inquiries to other sources may include, but are not limited to, the national practitioner data bank and drug enforcement agency.

AMENDATORY SECTION (Amending WSR 08-14-010, filed 6/19/08, effective 7/1/08)

WAC 246-817-190 Dental assistant registration. To be eligible for registration as a dental assistant you must:

- (1) Provide a completed application on forms provided by the secretary;
- (2) Pay applicable fees as defined in WAC 246-817-99005; and
- (3) ~~(Provide evidence of completion of seven clock hours of AIDS education and training as required by chapter 246-12 WAC Part 8; and~~
- (4)) Provide any other information determined by the secretary.

AMENDATORY SECTION (Amending WSR 08-14-010, filed 6/19/08, effective 7/1/08)

WAC 246-817-195 Licensure requirements for expanded function dental auxiliaries (EFDAs). To be eligible for licensure as an EFDA in Washington an applicant must:

- (1) Provide a completed application on forms provided by the secretary;
- (2) Pay applicable fees as defined in WAC 246-817-99005;
- (3) Provide evidence of:
 - (a) Completion of a dental assisting education program accredited by the Commission on Dental Accreditation (CODA); or
 - (b) Obtain the Dental Assisting National Board (DANB) certified dental assistant credential, earned through pathway II, which includes:
 - (i) A minimum of three thousand five hundred hours of experience as a dental assistant within a continuous twenty-four through forty-eight month period;
 - (ii) Employer-verified knowledge in areas as specified by DANB;
 - (iii) Passage of DANB certified dental assistant examination; and
 - (iv) An additional dental assisting review course, which may be provided online, in person or through self-study; or
 - (c) A Washington limited license to practice dental hygiene; or
 - (d) A Washington full dental hygiene license and completion of a course in taking final impressions affiliated with or provided by a CODA accredited dental assisting program, dental hygiene school or dental school.
- (4) Except for applicants qualified under subsection (3)(d) of this section, provide evidence of completing an EFDA education program approved by the commission where training includes:
 - (a) In a didactic, clinical and laboratory model to the clinically competent level required for close supervision:
 - (i) In placing and finishing composite restorations on a typodont and on clinical patients; and
 - (ii) In placing and finishing amalgam restorations on a typodont and on clinical patients; and
 - (iii) In taking final impressions on a typodont; and
 - (b) In a didactic, clinical and laboratory model to the clinically competent level required for general supervision:
 - (i) In performing coronal polish, fluoride treatment, and sealants on a typodont and on clinical patients; and
 - (ii) In providing patient oral health instructions; and
 - (iii) In placing, exposing, processing, and mounting dental radiographs; and
 - (c) The basic curriculum shall require didactic, laboratory, and clinical competency for the following:
 - (i) Tooth morphology and anatomy;

- (ii) Health and safety (current knowledge in dental materials, infection control, ergonomics, mercury safety, handling);
- (iii) Placement and completion of an acceptable quality reproduction of restored tooth surfaces—Laboratory and clinic only;
- (iv) Radiographs (covered in path II)—Laboratory and clinic only;
- (v) Ethics and professional knowledge of law as it pertains to dentistry, dental hygiene, dental assisting, and EFDA;
- (vi) Current practices in infection control;
- (vii) Health history alerts;
- (viii) Final impression;
- (ix) Matrix and wedge;
- (x) Rubber dam;
- (xi) Acid etch and bonding;
- (xii) Occlusion and bite registration;
- (xiii) Temporary restorations;
- (xiv) Dental emergencies;
- (xv) Risk management and charting;
- (xvi) Intra-oral anatomy;
- (xvii) Pharmacology; and
- (xviii) Bases, cements, liners and sealers.

(5) Except for applicants qualified under subsection (3)(d) of this section, attain a passing score on:

- (a) A written restorations examination approved by the commission; and
- (b) A clinical restorations examination approved by the commission.

(6) ~~(Provide evidence of completion of seven clock hours of AIDS education and training as required by chapter 246-12 WAC Part 8.~~

(7)) Provide any other information determined by the secretary.

AMENDATORY SECTION (Amending WSR 08-14-010, filed 6/19/08, effective 7/1/08)

WAC 246-817-200 Licensure without examination for expanded function dental auxiliary (EFDA). To be eligible for a license as an EFDA without examination you must:

- (1) Provide a completed application on forms provided by the secretary;
- (2) Pay applicable fees as defined in WAC 246-817-990;
- (3) Provide evidence of:
 - (a) A current license in another state with substantially equivalent licensing standards as determined by the commission; or
 - (b) A Washington full dental hygiene license and completion of a course in taking final impressions affiliated with or provided by a CODA accredited dental assisting program, dental hygiene school or dental school~~(-)~~; and
- (4) ~~(Provide evidence of completion of seven clock hours of AIDS education and training as required by chapter 246-12 WAC Part 8; and~~
- (5)) Provide any other information determined by the secretary.

AMENDATORY SECTION (Amending WSR 13-15-144, filed 7/23/13, effective 8/23/13)

WAC 246-817-205 Dental anesthesia assistant certification requirements. An applicant for certification as a dental anesthesia assistant must submit to the department:

- (1) A completed application on forms provided by the secretary;
- (2) Applicable fees as defined in WAC 246-817-99005;
- (3) Evidence of:
 - (a) Completion of a commission approved dental anesthesia assistant education and training. Approved education and training includes:
 - (i) Completion of the "Dental Anesthesia Assistant National Certification Examination (DAANCE)" or predecessor program, provided by the American Association of Oral and Maxillofacial Surgeons (AAOMS); or
 - (ii) Completion of the "Oral and Maxillofacial Surgery Assistants Course" course provided by the California Association of Oral and Maxillofacial Surgeons (CALAOMS); or
 - (iii) Completion of substantially equivalent education and training approved by the commission.
 - (b) Completion of training in intravenous access or phlebotomy. Training must include:
 - (i) Eight hours of didactic training that must include:
 - (A) Intravenous access;
 - (B) Anatomy;
 - (C) Technique;
 - (D) Risks and complications; and
 - (ii) Hands on experience starting and maintaining intravenous lines with at least ten successful intravenous starts on a human or simulator/manikin; or
 - (iii) Completion of substantially equivalent education and training approved by the commission;
 - (c) A current and valid certification for health care provider basic life support (BLS), advanced cardiac life support (ACLS), or pediatric advanced life support (PALS);
 - (d) A valid Washington state general anesthesia permit of the oral and maxillofacial surgeon or dental anesthesiologist where the dental anesthesia assistant will be performing his or her services (;
 - (e) ~~Completion of seven clock hours of AIDS education and training as required by chapter 246-12 WAC, Part 8); and~~
 - (4) Any other information determined by the commission.

AMENDATORY SECTION (Amending WSR 18-01-106, filed 12/19/17, effective 1/19/18)

WAC 246-817-220 Inactive license. (1) A dentist may obtain an inactive license by meeting the requirements of WAC 246-12-090 and RCW 18.32.185.

(2) An inactive license must be renewed every year on or before the practitioner's birthday according to WAC 246-12-100 and 246-817-990.

(3) If a license is inactive for three years or less, to return to active status a dentist must meet the requirements of WAC 246-12-110, 246-817-440, and 246-817-990.

(4) If a license is inactive for more than three years, and the dentist has been actively practicing in another United States jurisdiction, to return to active status the dentist must:

(a) Provide certification of an active dentist license, submitted directly from another licensing entity. The certification shall include the license number, issue date, expiration date and whether the applicant has been the subject of final or pending disciplinary action;

(b) Provide verification of active practice in another United States jurisdiction within the last three years; and

(c) Meet the requirements of WAC 246-12-110, 246-817-440, and 246-817-990.

(5) If a license is inactive for more than three years, and the dentist has not been actively practicing in another United States jurisdiction, to return to active status the dentist must provide:

(a) A written request to change licensure status;

(b) The applicable fees according to WAC 246-817-990;

(c) Proof of successful completion of:

(i) An approved practical/practice examination under WAC 246-817-120; or

(ii) A qualifying residency program under RCW 18.32.040 (3) (c);

(d) Written certification of all dental or health care licenses held, submitted directly from the licensing entity. The certification shall include the license number, issue date, expiration date and whether the applicant has been the subject of final or pending disciplinary action;

(e) Written declaration that continuing education and competency requirements for the two most recent years have been met according to WAC 246-817-440;

(f) Proof of successful completion of an approved written jurisprudence examination within the past year; and

(g) Proof of malpractice insurance if available, including dates of coverage and any claims history (; and

(h) ~~Proof of AIDS education according to WAC 246-817-110, if not previously provided~~).