WASHINGTON
Medical
Commission

Licensing. Accountability. Leadership.

Rules Hearing

Chapter 246-918 WAC
Physician Assistants

September 22, 2021 – 4:00 pm

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WASHINGTON Medical Commission
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Rule Hearing Notice

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Public Notification and Hearing Announcement
For the Washington Medical Commission
*CR-102 for chapter 246-918 WAC – physician assistants

Rulemaking
The Washington Medical Commission (Commission) officially filed a CR-102 with the Office of the Code Reviser on August 18, 2021. The Commission is amending chapter 246-918 WAC relating to physician assistants. The WSR# is 21-17-142.

Rules Hearing
In response to the filing, the Commission will conduct an open public rules hearing on Wednesday, September 22, 2021, beginning at 4:00 pm. In response to the COVID-19 public health emergency, the Washington Medical 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 a physical meeting space, will be held instead.

Please register for this Rules Hearing at:
https://attendee.gotowebinar.com/register/4450920241377813775
After registering, you will receive a confirmation email containing information about joining the webinar.

This meeting will be open to the public and the Commission encourages your participation.

Comments may be sent to the department's Rules Comment Web Site by September 15, 2021 at: https://fortress.wa.gov/doh/policyreview/. Comments may also be provided at the hearing. The hearing will be recorded for record keeping purposes.

Interested parties, stakeholders, and the general public are invited to participate in the rules hearing. For continued updates on rule development, interested parties are encouraged to join the Commission's rules GovDelivery.

For more information, please contact Amelia Boyd, Program Manager at (360) 918-6336 or by email at amelia.boyd@wmc.wa.gov.

*CR means Code Reviser

Attachments:
CR-102
Amended rule language

Rules Hearing Agenda

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

In response to the COVID-19 public health emergency, and to promote social distancing, the Medical Commission will not provide a physical location for this meeting. A virtual public meeting, without a physical meeting space, will be held instead. The registration link can be found below.

Wednesday, September 22, 2021 – 4:00 pm to 4:50 pm

Chapter 246-918 WAC – Physician Assistants

- Housekeeping
- Open workshop – Presiding Officer reads script
- Public Testimony
- Written comments from interested parties
- Panel discusses testimony and written comments
- Vote
- Hearing adjourned

Please register for Chapter 246-918 WAC - Physician Assistants - Rules Hearing on Sep 22, 2021 4:00 PM PDT at:

https://attendee.gotowebinar.com/register/4450920241377813775

After registering, you will receive a confirmation email containing information about joining the webinar.

To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email civil.rights@doh.wa.gov.

PROPOSED RULE MAKING

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 18, 2021
TIME: 11:58 AM

WSR 21-17-142

Agency: Department of Health- Washington Medical Commission

☒ **Original Notice**

☐ **Supplemental Notice to WSR**

☐ **Continuance of WSR**

☒ **Preproposal Statement of Inquiry was filed as WSR** 20-24-015 **; 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) Chapter 246-918 WAC Physician Assistants--Washington Medical Commission (commission). Revising physician assistant (PA) rules pursuant to Substitute House Bill (SHB) 2378 (Chapter 80, Laws of 2020) and updating PA rules to incorporate current, national standards and best practices.

Hearing location(s):			
Date:	**Time:**	**Location:** (be specific)	**Comment:**
9/22/2021	4:00 pm	In response to the coronavirus disease 2019 (COVID-19) public health emergency, the Washington Medical 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 a physical meeting space, will be held instead. Register for this webinar: https://attendee.gotowebinar.com/register/4450920241377813775	

Date of intended adoption: 09/22/2021 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Amelia Boyd
Address: PO Box 47866
Olympia, WA 98504-7866
Email: https://fortress.wa.gov/doh/policyreview
Fax: N/A
Other: N/A
By (date) 09/15/2021

Assistance for persons with disabilities:

Contact Amelia Boyd
Phone: (800) 525-0127
Fax:
TTY: 711

Email: medical.rules@wmc.wa.gov
Other:
By (date) 09/15/2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The commission is updating the PA chapter to more closely align with current industry standards, modernize regulations to align with current national industry standards and best practices, and provide clearer rule language for licensed PAs.

Included in this rulemaking is incorporating the requirements of SHB 2378 concerning physician assistants. The commission is adding new requirements in accordance with SHB 2378. This bill combines the osteopathic PA licensing under the Washington Medical Commission effective July 1, 2021 and eliminates the profession of Osteopathic Physician Assistant. The bill instructs the commission to consult with the Board of Osteopathic Medicine and Surgery when investigating allegations of unprofessional conduct by a licensee under the supervision of an osteopathic physician. The bill also reduces administrative and regulatory burdens on PA practice by moving practice agreements from an agency-level approval process to employment level process. Employers are required to keep agreements on file. The bill requires the commission to collect and file the agreements. Proposed amendments also change nomenclature from "delegation" to "practice" agreement and from "supervising physician" to "participating physician" agreement.

Reasons supporting proposal: RCW 43.70.041 requires the commission to review its administrative rules every five years to ensure that regulations are current and relevant.

SHB 2378 modernizes the practice of physician assistants in order to increase access to care, reduce barriers to employment of physician assistants, and optimize the manner in which physician assistants deliver quality medical care.

The proposed rules will benefit public health by ensuring physician assistants are informed and regulated by current national industry and best practice standards.

Statutory authority for adoption: RCW 18.71A.150, RCW 18.130.050, chapter 18.71A RCW

Statute being implemented: SHB 2378 (Chapter 80, Laws of 2020)

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) Washington Medical Commission

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Amelia Boyd	111 Israel RD SE, Tumwater, WA 98501	(360) 236-2727
Implementation:	Melanie de Leon	111 Israel RD SE, Tumwater, WA 98501	(360) 236-2755
Enforcement:	Melanie de Leon	111 Israel RD SE, Tumwater, WA 98501	(360) 236-2755

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: Amelia Boyd
Address: PO Box 47866
Olympia, WA 98504-7866
Phone: (360) 236-2727
Fax: N/A
TTY: 711
Email: amelia.boyd@wmc.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 rules do not impact businesses; these rules pertain only to provider licensing standards.

☐ 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: August 18, 2021	**Signature:**
Name: Melanie de Leon	
Title: Executive Director, Washington Medical Commission	

AMENDATORY SECTION (Amending WSR 20-08-069, filed 3/26/20, effective 4/26/20)

WAC 246-918-005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Commission" means the Washington medical commission.

(2) "Commission approved program" means a physician assistant program accredited by the committee on allied health education and accreditation (CAHEA); the commission on accreditation of allied health education programs (CAAHEP); the accreditation review committee on education for the physician assistant (ARC-PA); or other substantially equivalent organization(s) approved by the commission.

(3) ((~~"Delegation agreement" means a mutually agreed upon plan, as detailed in WAC 246-918-055, between a sponsoring physician and physician assistant, which describes the manner and extent to which the physician assistant will practice and be supervised.~~

~~(4)~~)) "NCCPA" means National Commission on Certification of Physician Assistants.

((~~(5)~~)) (4) "Osteopathic physician" means an individual licensed under chapter 18.57 RCW.

((~~(6)~~)) (5) "Physician" means an individual licensed under chapter 18.71 RCW.

((~~(7)~~)) (6) "Physician assistant" means a person who is licensed under chapter 18.71A RCW by the commission to practice medicine to a limited extent only under the supervision of a physician ((~~as defined in chapter 18.71 RCW~~)) or osteopathic physician.

(a) "Certified physician assistant" means an individual who has successfully completed an accredited and commission approved physician assistant program and has passed the initial national boards examination administered by the National Commission on Certification of Physician Assistants (NCCPA).

(b) "Noncertified physician assistant" means an individual who:

(i) Successfully completed an accredited and commission approved physician assistant program, is eligible for the NCCPA examination, and was licensed in Washington state prior to July 1, 1999;

(ii) Is qualified based on work experience and education and was licensed prior to July 1, 1989;

(iii) Graduated from an international medical school and was licensed prior to July 1, 1989; or

(iv) Holds an interim permit issued pursuant to RCW 18.71A.020(1).

(c) "Physician assistant-surgical assistant" means an individual who was licensed under chapter 18.71A RCW as a physician assistant between September 30, 1989, and December 31, 1989, to function in a limited extent as authorized in WAC 246-918-250 and 246-918-260.

(7) "Practice agreement" means a mutually agreed upon plan, as detailed in WAC 246-918-055, between a supervising physician and physician assistant, which describes the manner and extent to which the physician assistant will practice and be supervised.

(8) ((~~"Remote site" means a setting physically separate from the sponsoring or supervising physician's primary place for meeting patients or a setting where the physician is present less than twenty-five percent of the practice time of the licensee.~~

~~(9)~~)) "Supervising physician" means ((~~a sponsoring or alternate physician providing clinical oversight for a physician assistant.~~

~~(a) "Sponsoring physician" means~~)) any physician ((~~licensed under chapter 18.71 RCW and~~)) or osteopathic physician identified in a ((~~delegation~~)) practice agreement as providing primary clinical and administrative oversight for a physician assistant.

((~~(b)~~)) (9) "Alternate physician" means any physician ((~~licensed under chapter 18.71 or 18.57 RCW~~)) or osteopathic physician who provides clinical oversight of a physician assistant in place of or in addition to the ((~~sponsoring~~)) supervising physician.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-007 Application withdrawals. An applicant for a license or interim permit may not withdraw ((~~his or her~~)) their application if grounds for denial exist.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-035 Prescriptions. (1) A physician assistant may prescribe, order, administer, and dispense legend drugs and Schedule II, III, IV, or V controlled substances consistent with the scope of practice in an approved ((~~delegation~~)) practice agreement filed with the commission provided:

(a) The physician assistant has an active DEA registration; and

(b) All prescriptions comply with state and federal prescription regulations.

(2) If a supervising physician's prescribing privileges have been limited by state or federal actions, the physician assistant will be similarly limited in ((~~his or her~~)) their prescribing privileges, unless otherwise authorized in writing by the commission.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-050 Physician assistant qualifications for interim permits. An interim permit is a limited license. The permit allows an individual who has graduated from a commission approved program within the previous twelve months to practice prior to successfully passing the commission approved licensing examination.

(1) An individual applying to the commission for an interim permit under RCW 18.71A.020(1) must have graduated from an accredited commission approved physician assistant program.

(2) An interim permit is valid for one year from completion of a commission approved physician assistant training program. The interim permit may not be renewed.

(3) An applicant for a physician assistant interim permit must submit to the commission:

(a) A completed application on forms provided by the commission;
(b) Applicable fees as specified in WAC 246-918-990; and
(c) Requirements as specified in WAC 246-918-080.
((~~(4) An interim permit holder may not work in a remote site.~~))

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-055 ((~~Delegation~~)) Practice agreements. ((~~(1) The physician assistant and sponsoring physician must submit a joint delegation agreement on forms provided by the commission. A physician assistant may not begin practicing without written commission approval of a delegation agreement.~~

~~(2) The delegation agreement must specify:~~

~~(a) The names and Washington state license numbers of the sponsoring physician and alternate physician, if any. In the case of a group practice, the alternate physicians do not need to be individually identified;~~

~~(b) A detailed description of the scope of practice of the physician assistant;~~

~~(c) A description of the supervision process for the practice; and~~

~~(d) The location of the primary practice and all remote sites and the amount of time spent by the physician assistant at each site.~~

~~(3) The sponsoring physician and the physician assistant shall determine which services may be performed and the degree of supervision under which the physician assistant performs the services.~~

~~(4) The physician assistant's scope of practice may not exceed the scope of practice of the supervising physician.~~

~~(5) A physician assistant practicing in a multispecialty group or organization may need more than one delegation agreement depending on the physician assistant's training and the scope of practice of the physician(s) the physician assistant will be working with.~~

~~(6) It is the joint responsibility of the physician assistant and the supervising physician(s) to notify the commission in writing of any significant changes in the scope of practice of the physician assistant. The commission or its designee will evaluate the changes and determine whether a new delegation agreement is required.~~

~~(7) A physician may enter into delegation agreements with up to five physician assistants, but may petition the commission for a waiver of this limit. However, no physician may have under his or her supervision:~~

~~(a) More than three physician assistants who are working in remote sites as provided in WAC 246-918-120; or~~

~~(b) More physician assistants than the physician can adequately supervise.~~

~~(8) Within thirty days of termination of the working relationship, the sponsoring physician or the physician assistant shall submit a letter to the commission indicating the relationship has been terminated.~~

~~(9) Whenever a physician assistant is practicing in a manner inconsistent with the approved delegation agreement, the commission may take disciplinary action under chapter 18.130 RCW.~~)) (1) A practice agreement must meet the requirements in RCW 18.71A.120.

(2) A physician assistant may have more than one supervising physician if the practice agreement is entered into with a group of physicians and the language of the practice agreement designates the supervising physicians.

(3) Pursuant to a practice agreement, a physician assistant may administer anesthesia, except the types of anesthesia described in subsection (4) of this section, without the personal presence of a supervising physician.

(4) Administration of general anesthesia or intrathecal anesthesia may be performed by a physician assistant with adequate education and training under direct supervision of a supervising anesthesiologist. Adequate education and training for administration of general or intrathecal anesthesia is defined as:

(a) Completion of an accredited anesthesiologist assistant program; or

(b) Performance of general or intrathecal anesthesia clinical duties pursuant to a valid practice agreement prior to the adoption date of this section.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-075 Background check—Temporary practice permit. The commission may issue a temporary practice permit when the applicant has met all other licensure requirements, except the national criminal background check requirement. The applicant must not be subject to denial of a license or issuance of a conditional license under this chapter.

(1) If there are no violations identified in the Washington criminal background check and the applicant meets all other licensure conditions, including receipt by the department of health of a completed Federal Bureau of Investigation (FBI) fingerprint card, the commission may issue a temporary practice permit allowing time to complete the national criminal background check requirements.

A temporary practice permit that is issued by the commission is valid for six months. A one-time extension of six months may be granted if the national background check report has not been received by the commission.

(2) The temporary practice permit allows the applicant to work in the state of Washington as a physician assistant during the time period specified on the permit. The temporary practice permit is a license to practice medicine as a physician assistant provided that the temporary practice permit holder has a ((~~delegation~~)) practice agreement ((~~approved by~~)) on file with the commission.

(3) The commission issues a license after it receives the national background check report if the report is negative and the applicant otherwise meets the requirements for a license.

(4) The temporary practice permit is no longer valid after the license is issued or the application for a full license is denied.

AMENDATORY SECTION (Amending WSR 21-07-055, filed 3/12/21, effective 4/12/21)

WAC 246-918-080 Physician assistant—Requirements for licensure. (1) Except for a physician assistant licensed prior to July 1, 1999, individuals applying to the commission for licensure as a physician assistant must have graduated from an accredited commission approved physician assistant program and successfully passed the NCCPA examination.

(2) An applicant for licensure as a physician assistant must submit to the commission:

(a) A completed application on forms provided by the commission;

(b) Proof the applicant has completed an accredited commission approved physician assistant program and successfully passed the NCCPA examination;

(c) All applicable fees as specified in WAC 246-918-990; and

(d) Other information required by the commission.

(3) The commission will only consider complete applications with all supporting documents for licensure.

(4) A physician assistant may not begin practicing without ((~~written commission approval of a delegation agreement~~)) first filing a practice agreement with the commission.

(5) A physician assistant licensed under chapter 18.57A RCW prior to July 1, 2021, renewing their license on or after July 1, 2021, must do so with the commission. Individuals licensed under chapter 18.57A RCW and renewing their license after July 1, 2021, will follow the renewal schedule set forth in WAC 246-918-171. The commission shall issue a physician assistant license to the individuals described in this subsection without requiring full application or reapplication, but may require additional information from the renewing physician assistant.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-105 Practice limitations due to disciplinary action. (1) To the extent a supervising physician's prescribing privileges have been limited by any state or federal authority, either involuntarily or by the physician's agreement to such limitation, the physician assistant will be similarly limited in ((~~his or her~~)) their prescribing privileges, unless otherwise authorized in writing by the commission.

(2) The physician assistant shall notify their ((~~sponsoring~~)) supervising physician whenever the physician assistant is the subject of an investigation or disciplinary action by the commission. The commission may notify the ((~~sponsoring~~)) supervising physician or other supervising physicians of such matters as appropriate.

AMENDATORY SECTION (Amending WSR 07-03-177, filed 1/24/07, effective 3/1/07)

WAC 246-918-125 Use of laser, light, radiofrequency, and plasma devices as applied to the skin. (1) For the purposes of this rule, laser, light, radiofrequency, and plasma devices (hereafter LLRP devices) are medical devices that:

(a) Use a laser, noncoherent light, intense pulsed light, radiofrequency, or plasma to topically penetrate skin and alter human tissue; and

(b) Are classified by the federal Food and Drug Administration as prescription devices.

(2) Because an LLRP device penetrates and alters human tissue, the use of an LLRP device is the practice of medicine under RCW 18.71.011. The use of an LLRP device can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation.

(3) Use of medical devices using any form of energy to penetrate or alter human tissue for a purpose other than the purpose set forth in subsection (1) of this section constitutes surgery and is outside the scope of this section.

PHYSICIAN ASSISTANT RESPONSIBILITIES

(4) A physician assistant must be appropriately trained in the physics, safety and techniques of using LLRP devices prior to using such a device, and must remain competent for as long as the device is used.

(5) A physician assistant may use an LLRP device so long as it is with the consent of the ((~~sponsoring or~~)) supervising physician, it is in compliance with the practice ((~~arrangement plan approved by~~)) agreement on file with the commission, and it is in accordance with standard medical practice.

(6) Prior to authorizing treatment with an LLRP device, a physician assistant must take a history, perform an appropriate physical examination, make an appropriate diagnosis, recommend appropriate treatment, obtain the patient's informed consent (including informing the patient that a nonphysician may operate the device), provide instructions for emergency and follow-up care, and prepare an appropriate medical record.

PHYSICIAN ASSISTANT DELEGATION OF LLRP TREATMENT

(7) A physician assistant who meets the above requirements may delegate an LLRP device procedure to a properly trained and licensed professional, whose licensure and scope of practice allow the use of an LLRP device provided all the following conditions are met:

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

(b) Such delegated use falls within the supervised professional's lawful scope of practice;

(c) The LLRP device is not used on the globe of the eye; and

(d) The supervised professional has appropriate training in, at a minimum, application techniques of each LLRP device, cutaneous medicine, indications and contraindications for such procedures, preprocedural and postprocedural care, potential complications and infectious disease control involved with each treatment.

(e) The delegating physician assistant has written office protocol for the supervised professional to follow in using the LLRP device. A written office protocol must include at a minimum the following:

(i) The identity of the individual physician assistant authorized to use the device and responsible for the delegation of the procedure;

(ii) A statement of the activities, decision criteria, and plan the supervised professional must follow when performing procedures delegated pursuant to this rule;

(iii) Selection criteria to screen patients for the appropriateness of treatments;

(iv) Identification of devices and settings to be used for patients who meet selection criteria;

(v) Methods by which the specified device is to be operated and maintained;

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

(vii) A statement of the activities, decision criteria, and plan the supervised professional shall follow when performing delegated procedures, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician assistant concerning specific decisions made. Documentation shall be recorded after each procedure, and may be performed on the patient's record or medical chart.

(f) The physician assistant is responsible for ensuring that the supervised professional uses the LLRP device only in accordance with the written office protocol, and does not exercise independent medical judgment when using the device.

(g) The physician assistant shall be on the immediate premises during any use of an LLRP device and be able to treat complications, provide consultation, or resolve problems, if indicated.

AMENDATORY SECTION (Amending WSR 10-11-001, filed 5/5/10, effective 6/5/10)

WAC 246-918-126 Nonsurgical medical cosmetic procedures. (1) The purpose of this rule is to establish the duties and responsibilities of a physician assistant who injects medication or substances for cosmetic purposes or uses prescription devices for cosmetic purposes. These procedures can result in complications such as visual impairment, blindness, inflammation, burns, scarring, disfiguration, hypopigmentation and hyperpigmentation. The performance of these procedures is the practice of medicine under RCW 18.71.011.

(2) This section does not apply to:

(a) Surgery;

(b) The use of prescription lasers, noncoherent light, intense pulsed light, radiofrequency, or plasma as applied to the skin; this is covered in WAC 246-919-605 and 246-918-125;

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

(d) The use of nonprescription devices; and

(e) Intravenous therapy.

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

(a) "Nonsurgical medical cosmetic procedure" means a procedure or treatment that involves the injection of a medication or substance for cosmetic purposes, or the use of a prescription device for cosmetic purposes. Laser, light, radiofrequency and plasma devices that are used to topically penetrate the skin are devices used for cosmetic purposes, but are excluded under subsection (2)(b) of this section, and are covered by WAC 246-919-605 and 246-918-125.

(b) ((~~"Physician" means an individual licensed under chapter 18.71 RCW.~~

~~(c) "Physician assistant" means an individual licensed under chapter 18.71A RCW.~~

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

PHYSICIAN ASSISTANT RESPONSIBILITIES

(4) A physician assistant may perform a nonsurgical medical cosmetic procedure only after the commission approves a practice plan permitting the physician assistant to perform such procedures. A physician assistant must ensure that the supervising ((~~or sponsoring~~)) physician is in full compliance with WAC 246-919-606.

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

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

(a) Techniques for each procedure;

(b) Cutaneous medicine;

(c) Indications and contraindications for each procedure;

(d) Preprocedural and postprocedural care;

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

(f) Infectious disease control involved with each treatment.

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

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

(a) Take a history;

(b) Perform an appropriate physical examination;

(c) Make an appropriate diagnosis;

(d) Recommend appropriate treatment;

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

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

(g) Prepare an appropriate medical record.

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

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

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

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

(d) A statement of the activities, decision criteria, and plan the physician assistant must follow if performing a procedure delegated by a physician pursuant to WAC 246-919-606, including the method for documenting decisions made and a plan for communication or feedback to the authorizing physician concerning specific decisions made.

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

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

(12) ((~~A physician assistant may perform a nonsurgical medical cosmetic procedure at a remote site. A physician assistant must comply with the established regulations governing physician assistants working in remote sites, including obtaining commission approval to work in a remote site under WAC 246-918-120.~~

~~(13)~~)) A physician assistant must ensure that each treatment is documented in the patient's medical record.

((~~(14)~~)) (13) A physician assistant may not sell or give a prescription device to an individual who does not possess prescriptive authority in the state in which the individual resides or practices.

((~~(15)~~)) (14) A physician assistant must ensure that all equipment used for procedures covered by this section is inspected, calibrated, and certified as safe according to the manufacturer's specifications.

((~~(16)~~)) (15) A physician assistant must participate in a quality assurance program required of the supervising or sponsoring physician under WAC 246-919-606.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-130 Physician assistant identification. (1) A physician assistant must clearly identify himself or herself as a physician assistant and must appropriately display on ((~~his or her~~)) their person identification as a physician assistant.

(2) A physician assistant must not present himself or herself in any manner which would tend to mislead the public as to ((~~his or her~~)) their title.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-171 Renewal and continuing medical education cycle. (1) Under WAC 246-12-020, an initial credential issued within ninety days of the physician assistant's birthday does not expire until the physician assistant's next birthday.

(2) A physician assistant must renew ((~~his or her~~)) their license every two years on ((~~his or her~~)) their birthday. Renewal fees are accepted no sooner than ninety days prior to the expiration date.

(3) Each physician assistant will have two years to meet the continuing medical education requirements in WAC 246-918-180. The review period begins on the first birthday after receiving the initial license.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-175 Retired active license. (1) To obtain a retired active license a physician assistant must comply with chapter 246-12 WAC, ((~~Part 5,~~)) excluding WAC 246-12-120 (2)(c) and (d).

(2) A physician assistant with a retired active license must have a ((~~delegation~~)) practice agreement ((~~approved by~~)) on file with the commission in order to practice except when serving as a "covered volunteer emergency worker" as defined in RCW 38.52.180 (5)(a) and engaged in authorized emergency management activities or serving under chapter 70.15 RCW.

(3) A physician assistant with a retired active license may not receive compensation for health care services.

(4) A physician assistant with a retired active license may practice under the following conditions:

(a) In emergent circumstances calling for immediate action; or

(b) Intermittent circumstances on a part-time or full-time nonpermanent basis.

(5) A retired active license expires every two years on the license holder's birthday. Retired active credential renewal fees are accepted no sooner than ninety days prior to the expiration date.

(6) A physician assistant with a retired active license shall report one hundred hours of continuing education at every renewal.

AMENDATORY SECTION (Amending WSR 17-07-044, filed 3/8/17, effective 4/8/17)

WAC 246-918-185 Training in suicide assessment, treatment, and management. (1) A licensed physician assistant must complete a one-time training in suicide assessment, treatment, and management. The training must be at least six hours in length and may be completed in one or more sessions.

(2) The training must be completed by the end of the first full continuing education reporting period after January 1, 2016, or during

the first full continuing education period after initial licensure, whichever occurs later, or during the first full continuing education reporting period after the exemption in subsection (6) of this section no longer applies. The commission accepts training completed between June 12, 2014, and January 1, 2016, that meets the requirements of RCW 43.70.442 as meeting the one-time training requirement.

(3) ((~~Until July 1, 2017, the commission must approve the training. The commission will approve an empirically supported training in suicide assessment, suicide treatment, and suicide management that meets the requirements of RCW 43.70.442.~~

~~(4) Beginning July 1, 2017,~~)) The training must be on the model list developed by the department of health under RCW 43.70.442. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017.

((~~(5)~~)) (4) The hours spent completing training in suicide assessment, treatment, and management count toward meeting applicable continuing education requirements in the same category specified in WAC 246-918-180.

((~~(6)~~)) (5) The commission exempts any licensed physician assistant from the training requirements of this section if the physician assistant has only brief ((~~or~~)), limited ((~~patient contact~~)), or no patient contact.

AMENDATORY SECTION (Amending WSR 15-04-122, filed 2/3/15, effective 3/6/15)

WAC 246-918-260 Physician assistant-surgical assistant (PASA)—Use and supervision. The following section applies to the physician assistant-surgical assistant (PASA) who is not eligible to take the NCCPA certification exam.

(1) Responsibility of PASA. The PASA is responsible for performing only those tasks authorized by the supervising physician(s) and within the scope of PASA practice described in WAC 246-918-250. The PASA is responsible for ensuring ((~~his or her~~)) their compliance with the rules regulating PASA practice and failure to comply may constitute grounds for disciplinary action.

(2) Limitations, geographic. No PASA may be used in a place geographically separated from the institution in which the PASA and the supervising physician are authorized to practice.

(3) Responsibility of supervising physician(s). Each PASA shall perform those tasks ((~~he or she is~~)) they are authorized to perform only under the supervision and control of the supervising physician(s). Such supervision and control may not be construed to necessarily require the personal presence of the supervising physician at the place where the services are rendered. It is the responsibility of the supervising physician(s) to ensure that:

(a) The operating surgeon in each case directly supervises and reviews the work of the PASA. Such supervision and review shall include remaining in the surgical suite until the surgical procedure is complete;

(b) The PASA shall wear identification as a "physician assistant-surgical assistant" or "PASA." In all written documents and other communication modalities pertaining to ((~~his or her~~)) their professional

activities as a PASA, the PASA shall clearly denominate ((~~his or her~~)) their profession as a "physician assistant-surgical assistant" or "PA-SA";

(c) The PASA is not presented in any manner which would tend to mislead the public as to ((~~his or her~~)) their title.

AMENDATORY SECTION (Amending WSR 16-06-009, filed 2/18/16, effective 3/20/16)

WAC 246-918-410 Sexual misconduct. (1) The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Patient" means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician assistant-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the physician assistant and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Physician assistant" means a person licensed to practice as a physician assistant under chapter 18.71A RCW.

(c) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians and proxies.

(2) A physician assistant shall not engage in sexual misconduct with a current patient or a key third party. A physician assistant engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party:

(a) Sexual intercourse or genital to genital contact;

(b) Oral to genital contact;

(c) Genital to anal contact or oral to anal contact;

(d) Kissing in a romantic or sexual manner;

(e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;

(f) Examination or touching of genitals without using gloves, except for examinations of an infant or prepubescent child when clinically appropriate;

(g) Not allowing a patient the privacy to dress or undress;

(h) Encouraging the patient to masturbate in the presence of the physician assistant or masturbation by the physician assistant while the patient is present;

(i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;

(j) Soliciting a date;

(k) Engaging in a conversation regarding the sexual history, preferences or fantasies of the physician assistant.

(3) A physician assistant shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if the physician assistant:

(a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the physician assistant's personal or sexual needs.

(4) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(5) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors((~~,~~)) including, but not limited to, the following:

(a) Documentation of formal termination;

(b) Transfer of the patient's care to another health care provider;

(c) The length of time that has passed;

(d) The length of time of the professional relationship;

(e) The extent to which the patient has confided personal or private information to the physician assistant;

(f) The nature of the patient's health problem;

(g) The degree of emotional dependence and vulnerability.

(6) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

(7) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

(8) A violation of any provision of this rule shall constitute grounds for disciplinary action.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-918-082	Requirements for obtaining an allopathic physician assistant license for those who hold an active osteopathic physician assistant license.
WAC 246-918-095	Scope of practice—Osteopathic alternate physician.
WAC 246-918-120	Remote site.

Washington State Society of Anesthesiologists

September 10, 2021

John Maldon, Chair
Washington Medical Commission
6005 Tyee Drive SW
Tumwater, WA 98512

Re. Revisions to WAC 246-918-055

Dear Mr. Maldon,

The Washington State Society of Anesthesiologists (WSSA) appreciates the opportunity to comment on the proposed changes to the Washington Medical Commission rules and regulations. The WSSA was founded in 1948. It was formed to advance the science and art of anesthesiology, and to stimulate interest and promote progress in that specialty. It is a Washington State non-profit corporation and is a component society of the American Society of Anesthesiologists.

On behalf of the WSSA, I am writing to express concerns about proposed language in WAC 246-918-055(4)(b) regarding delivery of anesthesia by physician assistants.

WSSA supports the proposed language in WAC 246-918-055(4)(a), which requires physician assistants delivering general or intrathecal anesthesia to have completed an accredited anesthesiologist assistant program. However, the language in (b) exempts from this requirement any practitioner with a valid practice agreement in place prior to the adoption date of the rule.

The Commission has been clear that only a very small number of physician assistants in Washington are delivering general or intrathecal anesthesia via practice agreement, and we understand the intent of this section was to "grandfather" those practitioners in despite the new requirements. However, it now appears the adoption date of this proposed rule may be nearly one year from the time it was first filed (3/26/20), giving these practitioners a window of several months during which they could arrange a practice agreement which may allow them to avoid the necessary training & education.

Instead of grandfathering all PAs with valid practice agreements prior to the adoption of the rules, the Commission should establish a date by which the practice agreement model no longer applies. For example:

(b) Performance of general or intrathecal anesthesia clinical duties pursuant to a valid practice agreement prior to ~~the adoption date of this section.~~ July 1, 2021.

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The administrative delays in adopting the final rule may lead to an unintended expansion of a temporary waiver that was anticipated to expire well before the end of this year. Establishing an expiration date for the grandfather clause is necessary to prevent this.

An individual administering the anesthesia must be prepared to rescue their patient should the level of sedation become deeper than intended. As such, one administering deep sedation must be properly educated, trained, and authorized to rescue at the level of general anesthesia. Only those possessing the requisite education, training, and background to do so should be authorized.

Physician assistants do not have adequate training and education to administer general and intrathecal anesthesia without direct supervision. Unsupervised, independent practice for PAs administering anesthesia is not a known practice anywhere in the country, and for the safety of patients, should not be allowed here.

Thank you for your consideration of our comments. Should you have any questions, or if we can be of further assistance, please feel free to contact us at office@wa-anesthesiology.org.

Thank you.

Stephanie Yang, M.D., FASA
WSSA President