



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health- Nursing Care Quality Assurance Commission

- Preproposal Statement of Inquiry was filed as WSR 10-01-179 ; or
- Expedited Rule Making--Proposed notice was filed as WSR _ ; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

WAC 246-840-581 Early remediation program purpose; WAC 246-840-582 Early remediation program definitions; WAC 246-840-583 Early remediation program criteria.

Hearing location(s):

Department of Health
Rooms 152/153
310 Israel Road SE
Tumwater, WA 98502

Date: 05/14/10

Time: 9:30 a.m.

Submit written comments to:

Name: Terry J. West
Address: Department of Health
P.O. Box 47864
Olympia, WA 98504
Website: <http://www3.doh.wa.gov/policyreview/>
fax (360) 236-4738 by (date) 05/07/2010

Assistance for persons with disabilities: Contact

Department of Health by 05/07/2010

TTY (800) 833-6388 or () 711

Date of intended adoption: 05/14/2010

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Adopt Early Remediation Program rules. Rules allow and define the Nursing Care Quality Assurance Commission's ability to resolve complaints of a less serious nature through the Early Remediation Program. The nurse and employer can agree to an action plan involving training and monitoring. The investigation is abbreviated. The Early Remediation Program is currently in policy.

Reasons supporting proposal:

The Nursing Care Quality Assurance Commission currently has a backlog of investigations. The Early Remediation Program allows efficient use of limited resources. The investigation of complaints of a less serious nature is abbreviated. This allows quicker resolution and re-training of nurses. The public, the nurse and the employer are better served by a quicker resolution and re-training. The Early Remediation Program is voluntary and allows for saving time, resources and reduces the potential for future errors.

Statutory authority for adoption:

RCW 18.79.110 and RCW 18.130.050

Statute being implemented:

RCW 18.79.110 and RCW 18.130.050

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE April 6, 2010

NAME (type or print)

Paula R. Meyer, MSN, RN

SIGNATURE

TITLE

Executive Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 06, 2010

TIME: 5:10 PM

WSR 10-08-091

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

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

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Terry J. West	P.O. Box 47864, Olympia, WA 98504	(360) 236-4712
Implementation.... Terry J. West	P.O. Box 47864, Olympia, WA 98504	(360) 236-4712
Enforcement..... Terry J. West	P.O. Box 47864, Olympia, WA 98504	(360) 236-4712

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Terry J. West

Address: Department of Health, P.O. Box 47864, Olympia, WA 98504

phone (360) 236-4712

fax (360) 236-4738

e-mail terry.west@doh.wa.gov

No. Explain why no statement was prepared.

The rules do not impose more than minor costs on affected businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Terry J. West

Address: Department of Health

P.O. Box 47864

Olympia, WA 98504

phone (360) 236-4712

fax (360) 236-4738

e-mail terry.west@doh.wa.gov

No: Please explain: The rules do not impose more than minor costs on affected businesses.

NEW SECTION

WAC 246-840-581 Early remediation program purpose. The rules in WAC 246-840-582 and 246-840-583 are intended to effectively and efficiently protect patients by resolving allegations of practice deficiencies of a less serious nature through a plan of remedial education, training, and supervision. Such allegations may not include substance abuse or drug diversions. These rules outline the criteria and process of an early remediation program. The nursing care quality assurance commission may resolve complaints of practice deficiencies through early remediation during an investigation.

NEW SECTION

WAC 246-840-582 Early remediation program definitions. The definitions in this section apply throughout WAC 246-840-581 and 246-840-583 unless the context clearly requires otherwise.

"Action plan" means a documented agreement between the nurse named in the complaint(s) and the commission that outlines remedial steps the nurse will undertake to resolve the identified practice deficiencies. Action plans may include required remedial education or training, as well as follow-up monitoring of clinical practice by the current employer or other practice monitor.

"Commission" means the Washington state nursing care quality assurance commission.

"Complaint" means a documented report of a possible violation of the Uniform Disciplinary Act. The commission assesses the report and may authorize an investigation.

"Early remediation program" means a process in which a complaint alleging practice deficiencies is resolved through an action plan without initiating disciplinary procedures.

"Practice deficiencies" includes, but is not limited to, substandard nursing practice, failure to properly assess patients, document treatment, or administer medications, and failure to adhere to scope of practice or delegation laws and regulations. Practice deficiencies do not include drug diversion, patient abuse, fraud, theft, deceit or other willful misconduct, or conduct that results in more than minor patient harm.

NEW SECTION

WAC 246-840-583 Early remediation program criteria. (1) In any complaint where the commission identifies practice deficiencies, the commission may resolve the matter through the early remediation program.

(2) The commission uses the following criteria to determine eligibility for early remediation:

(a) The identified practice deficiencies are of the type and degree where remedial education, on-the-job training and practice monitoring could effectively correct the deficiencies within six months or less; and patient protection does not require significant long-term practice limits;

(b) The nurse is willing and able to participate in the early remediation program;

(c) The nurse's current employer agrees to participate in the action plan;

(d) The nurse has no current charges or disciplinary history of professional conduct and has not previously participated in an action plan; and

(e) The degree of patient harm suffered as a result of the nurse's substandard practice is minor, if any.

(3) The commission uses the following process to implement the early remediation program:

(a) After a preliminary investigation identifies and confirms the practice deficiencies, the commission applies the criteria.

(b) If all of the criteria are met and the commission determines the nurse is eligible for participation in the early remediation program the commission will propose an action plan to the nurse and employer.

(c) If the nurse complies with the terms of the agreed action plan, the commission may consider the nurse's timely and successful completion of the action plan as grounds to close the matter without further action.

(d) The commission evaluates whether the practice deficiencies have been corrected and are unlikely to recur.

(e) The commission may decide to complete a full investigation and consider possible disciplinary action if additional facts become known or circumstances change such that the nurse is no longer eligible based on the above criteria.