

Significant Legislative Rule Analysis (SA) WAC 246-840-201 through WAC 246-840-207 Nursing Care Quality Assurance Commission Documenting Continuing Competency

Section 1. What is the scope of the rule?

The Nursing Care Quality Assurance Commission (NCQAC) is proposing rules under the statutory authority to establish mechanisms for continuing competency. The purpose of the commission is to improve and protect the health of the citizens of Washington State through assuring the quality of nursing care in the state. Patients, families and communities expect to receive safe, competent and compassionate care. One of the commission's primary responsibilities is to establish continuing competency mechanisms for licensed registered nurses and licensed practical nurses in Washington State.

The proposed "Continuing Competency Program" requires nurses to document completion of 531 hours of active nursing practice and 45 hours of continuing nursing education for each three year license renewal cycle. The commission intends to audit a percentage of nurses renewing their licenses including late renewals. These nurses will be required to provide documentation of the required active practice and continuing education hours that they submitted in their attestation.

In its work to create and propose the continuing competency program, the commission examined two existing models and also reviewed a paper prepared by the National Council of State Boards of Nursing titled, "Guiding Principles for Continued Competency in Nursing." The U.S. Department of Defense requires Reservists to complete 960 hours of active practice over a five year period. This equates to two weekends of active practice every month. The Oregon Board of Nursing also requires nurses to complete 960 active practice hours over a five year period. This equates to 576 hours or 16 hours per month over a three year period. After considering these two programs and the information in the referenced paper, the commission elected to require nurses to complete 531 active practice hours or 14.75 hours per month. The 531 practice hours plus the 45 continuing education hours equals the original 576 hours over a three year period. This aligns with the original proposal and with other findings from state and national research.

Section 2. What are the general goals and specific objectives of the proposed rule's authorizing statute?

The general goal of RCW 18.79.010(1) is to ensure the people of this state are protected by nurses having a continuing competency mechanism. Patients, families, and communities expect

to receive safe, competent, and compassionate nursing care. The public expects nurses to practice using safe and competent skills and knowledge throughout his or her career.

The rules implement the statute's objectives by:

1. Regulating competency and quality of professional health care providers.
2. Enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline.
3. Adopting rules that promote the delivery of quality health care.

Section 3. What is the justification for the proposed rule package?

The proposed rules will achieve the authorizing statute's goals and objectives because it develops the mechanism for a continuing competency program. It implements continuing competency statewide and requires the nurses of Washington State to be actively practicing. Active practice has been shown through extensive research to be the highest indicator of competent practice. The commission has researched this topic for the last ten years. Research has included national and statewide studies, such as:

- North Carolina Board of Nursing : <http://www.ncbon.com/content.aspx?id=664>
- National Council of State Boards of Nursing: <https://www.ncsbn.org/855.htm>

The commission has assessed and determined that there are no feasible alternatives to rulemaking. Requiring nurses to complete an attestation or document active practice and continuing nursing education can only be accomplished through rules. To be enforceable the new requirements must be adopted into rule.

If these rules are not adopted the commission would not be complying with a statutory obligation to develop a continuing competency mechanism.

Section 4. What are the costs and benefits of each rule included in the rules package? What is the total probable cost and total probable benefit of the rule package?

A. Identification of total number of rules in package .

New Sections:

WAC 246-840-201 Continuing competency purpose statement

WAC 246-840-202 Continuing competency definitions.

WAC 246-840-203 Components of the continuing competency program

WAC 246-840-204 Continuing Competency Requirements – Reactivation expired status

WAC 246-840-205 Continuing Competency Requirements – Reactivation from inactive status

WAC 246-840-206 Continuing competency audit process and compliance

WAC 246-840-207 Failure to meet continuing competency requirements

Amendments:

WAC 246-840-010 Definitions

WAC 246-840-020 Documents issued to nurses in Washington

WAC 246-840-111 Expired license

WAC 246-840-120 Inactive credential

WAC 246-840-130 Criteria for approved refresher course

2. Non-Significant Rule Identification Table.

Table 1: Non-Significant Rule Identification

#	WAC Section	Section Title	Section Subject	Reason
1	WAC-246-840-201	Continuing competency purpose statement	Description of program	Give nurses some history for why the continuing competency program is being developed and implemented. The proposed rules do not include enforceable standards.
2	WAC-246-840-202	Continuing competency definitions	Definitions of terms used	Clarifies the meaning of common terms used throughout the rules.
3	WAC 246-840-207	Failure to meet continuing competency requirements	Outlines process for modification if no or inadequate information is submitted	This section outlines the Department of Health and commission's responsibilities to provide technical assistance to nurses.
4	WAC 246-840-010	Definitions	Definitions	Add new continuing competency terms.
5	WAC 246-840-020	Documents issued to nurses in Washington	Summary of credentials issued	Add reference to continuing competency under section on inactive status.
6	WAC 246-840-111	Expired license	Process for expired licenses and process to reactive an expired license	Add reference to continuing competency requirements to notify nurses whose license has been expired there is a continuing competency requirement in place that must be met before they can reactivate his or her expired license.

7	WAC 246-840-120	Inactive credential	Process to obtain an inactive credential and process to reactive inactive credential	Add reference to continuing competency requirements to notify nurses whose license has been inactive there is a continuing competency requirement in place that must be met before they can reactivate his or her inactive license.
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3. Significant Rule Analysis.

A. WAC 246-840-203 Components of the continuing competency program.

Rule Overview. The proposed rule outlines the two components of the continuing competency program. The first component is 531 hours of active practice over a three year period. The second component is 45 hours of continuing nursing education over a three year period.

Rule Cost/Benefit Analysis – The commission assumes nurses can satisfy the required active practice hours in paid and unpaid positions by working as a nurse, volunteering, teaching, working as a nurse administrator, public health or in home health settings. The cost is documenting the active practice. This is a minimal cost of collecting certificates, printing out summaries, updating a log book or copying paystubs. Therefore, documenting the required active practice hours will only be a burden if nurses are not actively practicing.

The commission assumes nurses can satisfy the continuing education coursework with no cost options. Nurses, however, can also elect to take specific courses that could have a cost up to \$1,000 for a paid course.

The commission assumes nurses will have incurred minimal costs to document their active practice and continuing education hours. The table below shows costs estimates for these functions, for a three year period.

Active nursing practice hours	531 hours every three years	For most, the commission assumes there are no additional costs. Licensees either get paid a salary for services or they volunteer for services. For those not currently actively practicing there will be an opportunity cost for their personal time needed to complete the active practice hours.
Attending continuing nursing education courses	45 hours every three years	The commission assumes education can be obtained at work, through professional meetings, writing, teaching or giving

		presentations. The cost could range from no cost up to \$1,000 for a paid course.
Copying costs	One hour	\$35 per hour plus 10 cents per page or approximately \$2.00.
Collecting certificates	One hour	\$35 per hour
Record keeping	One hour	\$35 per hour

The program will benefit nurses by requiring them to use and maintain their skills. Nurses will also benefit by being encouraged through self-assessment and reflection to take coursework in their area of expertise or in areas where they want to enhance their skills. The public benefits from the program by having a skilled workforce with up to date education.

B. WAC 246-840-204 Continuing competency requirements – reactivation from expired status.

Rule Overview. The proposed rule outlines the continuing competency requirements for a nurse whose license has been expired for less than three years. There is already a rule that outlines the process for nurses whose license has been inactive or expired more than three years. The proposed rule requires the nurse to obtain 1/3 of the hours in the first year upon reactivation. All persons reactivating will be required to submit documentation at the end of the first year.

Rule Cost/Benefit Analysis – The benefit of this rule is that nurses will begin practicing actively and taking education courses within one year of returning to the workforce. This will ensure nurses refresh their skills and have knowledge of current best practices and current technology. The public benefits from having assurance of workforce of skilled, well trained nurses. The cost to comply with the proposed rule is the same costs as identified in Table 2 above.

C. WAC 246-840-205 Continuing competency requirements – reactivation from inactive status.

Rule Overview. The proposed rule outlines the continuing competency requirements for a nurse who has been inactive for less than three years. There is already a rule that outlines the process for nurses whose license has been inactive or expired more than three years. The proposed rule requires the nurse to obtain 1/3 of the hours in the first year upon reactivation. All persons reactivating will be required to submit documentation at the end of the first year.

Rule Cost/Benefit Analysis – The benefit of this rule is that nurses will begin practicing actively and taking education courses within one year of returning to the workforce. This will ensure nurses refresh their skills and have knowledge of current best practices and current technology. The public benefits from having assurances of having a workforce of skilled, well trained nurses. The cost to comply with the proposed rule is the same costs as identified in Table 2 above.

D. WAC 246-840-206 Continuing competency audit process and compliance.

Rule Overview. The proposed rule outlines the process the commission will use to audit a percentage of nurses that are renewing their licenses (e.g. the commission will send selected nurses the audit form, nurses have to mail the form along with the documents they collected to document compliance with the continuing competency program back to the commission. . The rule gives multiple examples of how to meet the documentation requirements for the practice hours and continuing nursing education hours.

Rule Cost/Benefit Analysis – The commission assumes there will be minimal costs for nurses to complete the audit form and to send in their documents showing they satisfied the required active practice and continuing education hours. Nurses will have thirty days to comply. The thirty day timeframe is assumed to be a reasonable amount of time since they will know upfront what qualifies.

The benefit of the audit is the commission will be able to provide technical assistance to the nurses on his or her documentation and provide instructions on how to obtain additional active practice hours or continuing nursing education, if necessary. The nurses will benefit from the input and can use the information in his or her pursuit of professional career goals.

4. Rule Package Cost-Benefit Conclusion.

As the analysis above indicates, the continuing competency program will have a nominal cost for nurses to comply. The benefits from the continuing competency program, however, are great. The program will provide the mechanism so that nurses will have the skills and training needed to provide high quality nursing care. The program will lead to a reduction in errors and a reduction in potential for harm for patients and their family.

Section 5. What alternative versions of the rule did we consider? Is the proposed rule the least burdensome approach?

Descriptions of alternatives considered:

When the commission began researching other states and countries for their continuing competency programs they first began looking at a portfolio model. The portfolio model would require that the nurse put together documentation of all of his or her goals, education, classes, and outline his or her areas of deficit. The portfolio would need to be submitted to the commission. The portfolio would require a lot more documentation, a lot more work to put everything together and more time to do the self reflection piece. The commission decided to reduce the amount of hours and reduce the documentation. Submission of the documentation is not required for all nurses, only the small percentage of nurses who are audited. Instead, the nurse attests he or she has completed the active practice and continuing nursing education.

The original rate for random audits was 15%. This rate has been reduced to less than 5% of licensees based on stakeholder input. This lower number will still allow for a random sampling of compliance. It will also allow the commission to concentrate on technical assistance rather than enforcement.

The number of continuing education hours has been reduced. The current model requires only 45 hours over a three year period which is only 15 hours every year based on stakeholder input.

The number of hours for active practice has been reduced from 960 to 531 from the original model based on stakeholder input.

Table 3. Least burdensome determination.

Alternatives versions considered	Level of Burden
#1 Continuing competency purpose statement	No change.
#2 Continuing competency definitions	No change.
#3 Components of the continuing competency program	Reduced the number of components from three to two. Reduced the number of active practice hours and reduced the number of continuing nursing education hours.
#4 Continuing competency audit process and compliance	Reduced the number of nurses who will be audited. Reduced the frequency of audits. Reduced the amount of documentation required for the audit.
#6 Failure to meet the continuing competency requirements	Reduced the language from a punitive model to a technical assistance model. Added several levels of technical assistance to the process with some timelines.
#7 Definitions	No change
#8 Documents issued to nurses in Washington	No change
#9 Expired license	No change
#10 Inactive credential	No change
#11 Criteria for approved refresher course	No change

Section 6. Did you determine that the rule does not require anyone to take an action that violates another federal or state law?

The rules do not require those to whom it applies to take an action that violates requirements of federal or state law.

Section 7. Did we determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless the difference is required in federal or state law?

The commission determined the rules do not impose more stringent performance requirements on private entities than on public entities. All nurses are individuals.

Section 8. Did you determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, did we determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary?

The rule does not differ from any applicable federal regulation or statute.

Section 9. Did we demonstrate that the rule has been coordinated, to the maximum extent possible, with other federal, state, and local laws applicable to the same activity or subject matter?

There are no other applicable laws.