

**Significant Legislative Rule Analysis (SA)**  
**For Rules Concerning**  
**WAC 246-817-701 Administration of Anesthetic Agents for Dental Procedures**  
**and**  
**WAC 246-817-722 Defibrillator**

**Section 1. What is the scope of the rule?**

The Dental Quality Assurance Commission (Commission) is proposing to amend WAC 246-817-701, standards addressing administration of anesthetic agents for dental procedures, and WAC 246-817-722, which address defibrillator requirements. The proposed amendments to WAC 246-817-701 will remove the requirement for twenty-four hour on-call availability following procedures using local anesthetic. The proposed amendments to WAC 246-817-722 will require an automated external defibrillator (AED) or defibrillator only in offices administering minimal, moderate, or deep sedation, or general anesthesia. The proposed rule will also allow these offices to share an AED or defibrillator if it is available to dental office staff within sixty seconds. The proposed amendments to WAC 246-817-722 removes the requirement for an AED or defibrillator in offices that only provide local anesthetic.

The existing standards within WAC 246-817-701 and WAC 246-817-722 currently require all dentists that perform procedures using an anesthetic agent to provide twenty-four hour on-call availability and to have an AED or defibrillator available.

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

The general goal RCW 18.32.640 is to ensure patient safety by allowing the Commission to adopt rules governing the administration of sedation and general anesthesia by licensed dentists, including training, education, equipment, and issuance of permits.

RCW 18.32.0365 allows the Commission to adopt rules governing the practice of dentistry and licensing of dentists.

The objective of this rule is to provide standards that are intended to increase patient safety for those patients under minimal and moderate sedation, if in the unlikely event something were to go wrong. Defibrillator or AED requirements already exist under WAC 246-817-770 for those offices that administer general anesthesia and deep sedation. The proposed changes are intended to close the loop without crossing over or exceeding the requirements for general anesthesia.

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

The Commission is proposing these rule amendments based upon input from stakeholders, specifically dentists. Rules adopted in January 2009 increased the requirements regarding on-call availability and the placement of AED or defibrillators in dental offices. Several dentists suggested that there was insufficient data to support the requirement for twenty-four hour on-call availability following procedures that used only local anesthesia. The Commission created a work group, consisting of licensed professionals knowledgeable in the practice of dentistry to study the issue. Based on professional experience and judgment, the work group recommended, and the Commission concurred, to propose amended rules to address these issues.

Dentists also suggested that there was not sufficient data to support the requirement for AEDs or defibrillators for practitioners that only use local anesthesia (versus sedation) and viewed the requirement as burdensome and without substantive benefits. Dentists also suggested that they should be able to share an AED or defibrillator with an adjacent business as long as the device is available within sixty seconds. The proposed sixty second requirement is consistent with the existing standards in WAC 246-817-770, which addresses those offices that administer general anesthesia and deep sedation. These interested parties believe that allowing dentist offices to share an AED or defibrillator will still provide the safeguard, but will allow dentists to share the costs of the equipment with an adjacent business. The Commission's work group studied this issue, and based on professional experience and judgment recommended, and the Commission concurred, to propose amended rules to address these issues.

In both cases, it was determined that safeguards for procedures that only use local anesthesia was not a part of the issue being addressed in the previous rulemaking and therefore could be eliminated from the existing requirements without affecting patient safety.

The proposed rule will achieve the authorizing statute's goals and objectives because standards for administering sedation and general anesthesia can only be enforced when adopted in rule. The proposed rules will allow the Commission to regulate licensed dentists with well defined standards without affecting patient safety.

**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?**

**Significant Rule Analysis**

The two proposed rules in this package, WAC 246-817-701 and WAC 246-817-722, are both considered to be significant

A. WAC 246-817-701 Administration of anesthetic agents for dental procedures.

Rule Overview – The existing rule requires all anesthesia providers to provide twenty-four hour on-call availability following an anesthesia procedure. The proposed rule excludes the twenty-four hour on-call availability requirement following procedures using only local anesthetics.

Rule Cost/Benefit Analysis – There is no cost associated with this rule. Some dentists will have a cost savings. The cost savings could include no longer paying an answering service to forward calls, however most dentists already provide alternatives to patients for after hour calls.

#### B. WAC 246-817-722 Defibrillator

Rule Overview – The proposed rule eliminates the requirement for dentists who only administer local anesthetics to have an AED or defibrillator in their office. The change also clarifies a defibrillator can be shared between offices and defines how a defibrillator or AED can be shared.

Rule Cost/Benefit Analysis – There is a lack of clinical evidence or data to conclude that the public is at significant risk for cardiac events when they are administered local anesthetics. Sedation does have a potential for cardiovascular depression which supports requiring a defibrillator or AED in dental offices that administer sedation. The proposed rule removes the requirement for dental offices that only administer local anesthesia to have a defibrillator or an AED available. There is a potential cost savings for those dentist offices that elect to “share” the costs of purchasing and maintaining a defibrillator or AED.

#### **Rule Package Cost-Benefit Conclusion**

Several stakeholders suggested that there was insufficient data to support the requirement for twenty-four hour on-call availability following procedures that used local anesthesia only. They also suggested that there was not sufficient data to support the requirement for AEDs or defibrillators for practitioners that only use local anesthesia (versus sedation) and viewed the requirement as burdensome and without substantive benefits.

These proposed rules address these issues by removing the requirement for twenty-four hour on-call availability and an AED or defibrillator for dentists that only administer local anesthesia. The proposed changes do not impose regulatory compliance costs on dentists, and may result in cost savings for some dentists.

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

##### **Descriptions of alternatives considered**

##### **WAC 246-817-701 (2) Administration of Anesthetic Agents for Dental Procedures**

###### *Alternative #1*

All anesthesia providers must provide twenty-four hour, on-call availability following an anesthesia procedure, excluding local anesthetic.

##### **Least burdensome determination**

Compared to this alternative version, the proposed rule is less burdensome for those required to comply because the rule clearly excludes dentists only administering local anesthetic.

### **WAC 246-817-722 Defibrillator**

#### *Alternative #1*

Every dental office in the state of Washington that administers any type of anesthetic must have an automated external defibrillator (AED) or defibrillator. The dentist and staff must be prepared to use this equipment in an emergency, and it must always be ready to use within sixty (60) seconds. A dental office may share a single AED unit with an adjacent business if it meets the foregoing requirements.

#### *Alternative #2*

Every dental office in the state of Washington that administers any type of sedation, excluding local anesthetic must have an automated external defibrillator (AED) or defibrillator. The dentist and staff must be prepared to use this equipment in an emergency, and it must always be ready to use within sixty (60) seconds. A dental office may share a single AED unit with an adjacent business if it meets the foregoing requirements.

#### *Alternative #3*

Every dental office in the state of Washington that administers any type of sedation must have an automated external defibrillator (AED) or defibrillator. The dentist and staff must be prepared to use this equipment in an emergency, and it must be available and in reach within sixty seconds. A dental office may share a single AED unit with an adjacent business if it meets the foregoing requirements.

### **Least burdensome determination**

Compared to the three alternative versions, the proposed rule is less burdensome for those required to comply because the rule clearly excludes dentists only administering local anesthetic.

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

The rule does 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 Dental Quality Assurance Commission determined that the rule does not impose more stringent performance requirements on private entities than on public entities.

**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.