



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health- Chiropractic Quality Assurance Commission

- Preproposal Statement of Inquiry was filed as WSR 12-01-129 ; 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).

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

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

WAC 246-808-180 Expired Licenses, Requirements to reactivate a license. The Chiropractic Quality Assurance Commission (commission) is proposing rules to amend the requirements to reactivate an expired chiropractic license.

Hearing location(s): Department of Health
Point Plaza East Building, Rooms 152/153
310 Israel Road SE
Tumwater, Washington 98501

Date: 12/13/12

Time: 10:00 a.m.

Submit written comments to:

Name: Leann Yount, Program Manager
Address: Department of Health, Chiropractic Commission
PO Box 47852
Olympia, WA 98504-7852
e-mail: <http://www3.doh.wa.gov/policyreview/>
fax 360.236.2901 by (date) 12/03/2012

Assistance for persons with disabilities: Contact

Leann Yount by 11/29/2012

TTY (800) 833-6388 or () 711

Date of intended adoption: 12/13/2012

(Note: This is NOT the effective date)

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

The proposed rules describe the requirements to reactivate an expired license. The proposal requires the chiropractor to submit completed continuing education (CE) documentation for approval and they must also pass the jurisprudence exam. Chiropractors that have let their license expire for at least three years, and were not licensed to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada, must also pass the National Board of Chiropractic Examiners Special Purpose Examination of Chiropractic (SPEC) before their license can be returned to active.

Reasons supporting proposal:

The proposed rules contribute to patient safety by requiring chiropractors to have current skills and knowledge. In addition, the rules also establish specific requirements to evaluate the chiropractor's clinical competency skills and knowledge by requiring the SPEC exam for those that have not practiced chiropractic for at least three years. Currently there is no competency requirements for a chiropractor to reactivate a license that has been expired for more than three years.

Statutory authority for adoption:

RCW 18.25.0171 and RCW 18.130.050

Statute being implemented:

RCW 18.25.0171

Is rule necessary because of a:

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 23, 2012
TIME: 4:28 PM

WSR 12-21-121

DATE 10/23/12

NAME (type or print)
Leann Yount

SIGNATURE *Leann Yount*

TITLE
Program Manager

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

None

Name of proponent: (person or organization)
Commission

Department of Health - Chiropractic Quality Assurance

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Leann Yount	111 Israel Road SE Tumwater, WA 98501	360.236.4856
Implementation....Leann Yount	111 Israel Road SE Tumwater, WA 98501	360.236.4856
Enforcement.....Leann Yount	111 Israel Road SE Tumwater, WA 98501	360.236.4856

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No. Explain why no statement was prepared.

A small business economic impact statement was not prepared. The proposed rule would not impose more than minor costs on businesses in an industry.

Is a cost-benefit analysis required under RCW 34.05.328?

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

Name: Leann Yount, Program Manager

Address: Department of Health - Chiropractic Commission 111 Israel Road SE Tumwater, WA 98501

phone 360.236.4856

fax 360.236.2901

e-mail leann.yount@doh.wa.gov

No: Please explain:

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-808-180 Expired licenses--Requirements for ((reinstating)) reactivating a chiropractic license. If a chiropractor's license is expired, to return to active status the chiropractor must meet the requirements of WAC 246-12-040 and comply with the following:

~~(1) If the license has expired for ((three years or)) less ((7 the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.~~

~~(2) If the license has expired for more than three years and the practitioner can submit proof of continuing education, the practitioner must:~~

~~(a) Successfully complete the jurisprudence examination given by the department;~~

~~(b) Meet the requirements of chapter 246-12 WAC, Part 2.~~

~~(3)) than one year, the chiropractor must submit to the department a written attestation of completing at least twenty-five hours of continuing education in any of the categories under WAC 246-808-150.~~

(2) If the chiropractor does not have an active license to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada and:

(a) If the license has expired for one year or more but less than three years ((and)), the ((practitioner cannot submit proof of continuing education courses during the time the license was expired, the practitioner)) chiropractor must:

((a) Successfully) (i) Complete at least fifty hours of continuing education in any of the categories listed under WAC 246-808-150 and submit to the department the appropriate documentation of course completion for approval; and

(ii) Pass the jurisprudence examination as ((provided in RCW 18.25.040 and 18.25.070(2));

(b) Meet the requirements of chapter 246-12 WAC, Part 2)) specified in WAC 246-808-115.

(b) If the license has been expired for three years or more, the chiropractor must:

(i) Complete at least fifty hours of continuing education in any of the categories listed under WAC 246-808-150 and submit to the department the appropriate documentation of course completion for approval;

(ii) Pass the jurisprudence examination as specified in WAC 246-808-115; and

(iii) Pass the National Board of Chiropractic Examiners Special Purposes Examination of Chiropractic and submit to the

department the appropriate documentation verifying a passing score.

(3) If the license has expired for one year or more, and the chiropractor has an active license to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada, the chiropractor must:

(a) Meet the requirements of WAC 246-808-135 for licensure by endorsement; or

(b) Meet the requirements of subsection (2)(a) or (b) of this section depending on the length of time the license has been expired.

Significant Legislative Rule Analysis (SA)
WAC 246-808-180,
Requirements to reactivate an expired chiropractic license
October 12, 2012

Section 1. What is the scope of the rule?

The proposed rule amends existing requirements for reactivating an expired chiropractic license. The Chiropractic Quality Assurance Commission (commission) evaluated and determined it is necessary to require additional compliance standards when chiropractors let their license expire so they can demonstrate that they will be able to practice in a safe and effective manner.

The proposed rule identifies the requirements for reactivating an expired license when the credential has been expired 1) less than one year, 2) from one to three years and 3) more than three years. Specifically, the commission is requiring chiropractors, depending on the amount of time their license has expired, to take additional continuing education (CE) hours, and pass the jurisprudence examination and the Special Purposes Examination of Chiropractic (SPEC). The proposed rule also allows a chiropractor that has been actively practicing in another jurisdiction to reactivate their license by complying with WAC 246-808-135, licensure by endorsement, an existing regulation.

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

RCW 18.25.0171 authorizes the commission to adopt rules as necessary to carry out the purposes of Chapter 18.25 RCW, which is to regulate the competency and quality of professional health care providers by establishing, monitoring and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules developed by the commission must promote the delivery of quality health care to the residents of the state.

The statute's objective that the proposed rule implements is to protect patients by requiring chiropractors to demonstrate continuing competency by completing continuing education and passing examinations.

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

WAC 246-12-040 sets the general requirements for a health practitioner to renew an expired credential. The disciplining authority must determine any additional requirements related to competency. The commission is proposing rules that contribute to patient safety by ensuring chiropractors have the current competency, skills, and knowledge necessary to practice safely.

The proposed rule will protect the public by requiring chiropractors to have the skills and knowledge to practice safely, if they have not recently been an actively practicing chiropractor.

The commission has assessed and determined that there are no feasible alternatives to rulemaking. In order to be enforceable, the requirement to take additional continuing education hours and requirements to pass the SPEC test must be in statute or rule.

If this rule is not adopted, the chiropractors could continue to reactivate expired chiropractic licenses by paying the fees and passing the jurisprudence exam. The public may be at risk of receiving services from a chiropractor who has not practiced or completed continuing education for several years.

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:

WAC 246-808-180 - Expired Licenses – Requirements to reactivate an expired license.

Rule Overview – The rule specifies requirements a chiropractor must satisfy to reactivate their expired license. In addition to the general renewal requirements for all practitioners, which includes the requirement to comply with the application process and pay appropriate fees, the propose rule establishes additional requirements that vary depending on the time the license has been expired and also if the chiropractor has been actively practicing in another state. The proposed rules are summarized in the following four categories. For each of these categories, the description of the requirements to reactivate the license is outlined:

- 1) Chiropractor license expired for less than one year:
 - Must submit a written attestation that they have completed at least twenty five (25) hours of continuing education as outlined under WAC 246-808-150.
- 2) Chiropractor license expired for one year or more but less than three years, when the chiropractor has not been actively practicing in another state, territory of the United States, the district of Columbia, Puerto Rico, or province of Canada¹:
 - Must submit appropriate documentation to the Department that they have completed at least fifty (50) hours of CE, and
 - Pass the jurisprudence examination specified in WAC 246-808-115
- 3) Chiropractor license expired for three years or more, when the chiropractor has not been actively practicing in another state, territory of the United States, the District of Columbia, Puerto Rico, or Province of Canada:

¹ RCW 18.25.070(2) is the CE law that requires the commission to adopt standards for annual CE credit requirements. The commission wants every chiropractor to maintain or obtain CE prior to renewing their credential in Washington.

- Must submit appropriate documentation to the Department that they have completed at least fifty (50) hours of CE as outlined under 246-808-150,
 - Pass the jurisprudence examination specified in WAC 246-808-115, and
 - Pass the National Board of Chiropractic Examiners Special Purposes Examination of Chiropractic and submit the appropriate documentation verifying a passing score to the Department.
- 4) Chiropractor license expired for one year or more, when the chiropractor has been actively practicing in another state, territory of the United States, the District of Columbia, Puerto Rico, or Province of Canada²:
- Meet the requirements of WAC 246-808-135 for licensure by endorsement, or
 - Meet requirements of 2) or 3) above based on the length of time the license has been expired.

Rule Cost/Benefit Analysis:

For a credential expired (i.e. did not renew their license) for three years or less, the existing rule, WAC 246-808-180, refers chiropractors to the uniform renewal rules under chapter 246-12, WAC Part 2. The uniform rules provide for each profession to set any CE requirements. RCW 18.25.070 requires that chiropractors complete 25 hours of CE during the preceding credential period (one year). Of the 25 hours, 12 hours may be obtained online, through other multimedia, or as an instructor. The remaining 13 hours must be from live, face-to-face instruction.

Chiropractors who have an expired license are responsible for completing this coursework. The propose rule establishes a requirement for chiropractors that have a license that has expired for more than one year to take fifty hours of CE. In effect, this requires the chiropractor to “catch up” with the CE requirements for the credential periods when their license was not renewed.

An online CE course ranges from \$57 - \$100 for a 3-4 hour course if a person signs up for multiple courses. Some entities offer the first course free. Live instruction courses range from \$200 - \$375 for up to 12 CE hours. A CE series that includes 50+ hours may cost as much as \$1500.

The jurisprudence exam is already included in the license renewal fee. It does not impose a new or additional cost to the chiropractor.

The National Board of Chiropractic Examiners offers the SPEC exam for \$935. This is the only organization that provides the SPEC exam.

The commission believes there is an increased risk of patient harm when a practitioner has not practiced for more than one year and has not maintained clinical competency through actively practicing and completing CE. The commission is concerned that these practitioners may not

² RCW 18.25.040 is the licensure by endorsement law. The commission is trying to clarify this option in the proposed rule by outlining this as an alternative for chiropractors that have an active license in another jurisdiction but let their Washington license expire.

have the skills and knowledge required to safely treat patients. The benefit of this rule is that chiropractors who have expired licenses will be demonstrating that they have the skills and knowledge to practice safely before holding an active license to practice.

Rule Package Cost-Benefit Conclusion:

Although there are costs for chiropractors to renew an expired license, as described in the preceding analysis, the benefits of requiring chiropractors to complete continuing education (so they are current with emerging technology and regulations) and pass an examination (so they can show that they have the knowledge and competence needed to practice safely) outweigh these costs. Therefore the total probable benefits of the proposed rule exceed the total probable costs.

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

Descriptions of alternatives considered

The alternatives considered were:

Alternative #1:

The commission considered requiring the SPEC exam for all licenses expired for more than one year. After consideration, the commission elected to only require the SPEC on licenses that expired for more than three years, with the belief that chiropractors would not lose their competency in a timeframe of less than three years.

Alternative #2:

Leave rule as is. The commission would not be able to require the chiropractor to take CE or to pass the jurisprudence exam if they have been expired for less than three years. This does not protect the public.

Least burdensome determination

Leaving the rule unchanged is the least burdensome but does not protect the patients. The cost to reactivate an expired chiropractic license is minimal compared to the benefits of protecting the public. By requiring the SPEC exam for chiropractors that have been out of the field for three years or more, will determine if the chiropractor is clinically competent and safe to practice again.

These standards are consistent with most other health professions under the umbrella of the Department of Health.

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 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.