



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

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FILED

DATE: January 14, 2022

TIME: 8:20 AM

WSR 22-03-054

Agency: Department of Health

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 20-06-027 ; 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) WAC 246-72-010, 246-72-030, WAC 246-72-050, WAC 246-72-080, WAC 246-72-090, WAC 246-72-100, WAC 246-72-110, and WAC 246-72-120 - Medical Marijuana Consultant Certification. The Department of Health is proposing amendments to various sections within Chapter 246-72 WAC to enhance and clarify training program requirements, education and other requirements of an instructor; continuing education, practice parameters of a medical marijuana certified consultant, and other house-keeping amendments.

### Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
02/22/2022	9:30am	<p>In response to the coronavirus disease 2019 (COVID-19), the Department of Health 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.</p> <p>Register in advance for this webinar:  <a href="https://us02web.zoom.us/webinar/register/WN_X_UV8T5zTim6YE_qkkgvSCA">https://us02web.zoom.us/webinar/register/WN_X_UV8T5zTim6YE_qkkgvSCA</a></p> <p>After registering, you will receive a confirmation email containing information about joining the webinar.</p>	

**Date of intended adoption:** 03/01/2022 (Note: This is **NOT** the effective date)

### Submit written comments to:

Name: Allyson Clayborn

Address: PO Box 47850  
Olympia, WA 98504

Email: <https://fortress.wa.gov/doh/policyreview>

Fax: 360-236-2820

Other: N/A

By (date) 02/22/2022

**Assistance for persons with disabilities:**Contact Allyson Clayborn

Phone: 360-236-2820

Fax: 360-236-2901

TTY: 711

Email: allyson.clayborn@doh.wa.gov

Other:

By (date) 02/15/2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** In response to a rule petition, the department is proposing amendments to portions of the chapter regarding continuing education (CE) for certified consultants. This includes requiring successful completion of a two-hour course provided by the department, allowing the use of self-study programs, and clarifying specific topics to be included in each training.

Additionally, the department is proposing amendments to chapter 246-72 WAC to clarify the following: (1) The definitions of "designated provider" and "qualifying patient;" (2) Training program requirements; (3) Practice parameters of a certified consultant (e.g. assisting medical marijuana card holders with their purchases); (4) Education and other requirements to be an instructor of an initial consultant training course; and (5) Correcting citations and other house-keeping items.

The overall goal of this proposal is to ensure certified consultants have a solid understanding of their role and knowledge of industry regulations, rules, and laws in order to ensure accurate information is being shared on the front end with the qualifying patients, designated providers, and consumers they are assisting.

**Reasons supporting proposal:** The proposed rules are necessary to set and clarify operational and administrative standards of the database and certification standards and practice parameters for consultant certification. Specifically, the rule revisions clarify inconsistencies and knowledge gaps in medical marijuana consultant training per chapter 69.51A RCW by clearly defining expected training standards, necessary certification requirements and practice parameters for consultants in chapter 246-72 WAC. Amending such rules are necessary to provide the best public health and welfare.

The proposed amendments are intended to eliminate confusion about training standards and the role and knowledge of the certified medical marijuana consultant related to the authorization database and consultant certification which places patient privacy and safety at risk. Currently medical marijuana patients experience frustration with registering in the database and confusion when selecting products that may benefit their medical condition. The proposed rules are critical to ensuring that medical marijuana consultants are well trained and sharing consistent, accurate information with the patient community.

**Statutory authority for adoption:** RCW 69.51A.290

**Statute being implemented:** RCW 69.51A.290

**Is rule necessary because of a:**Federal Law?  Yes  NoFederal Court Decision?  Yes  NoState 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) Department of Health

 Private Public Governmental**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Allyson Clayborn	111 Israel Rd SE, Tumwater WA 98501	360-236-2820
Implementation:	Allyson Clayborn	111 Israel Rd SE, Tumwater WA 98501	360-236-2820
Enforcement:	Allyson Clayborn	111 Israel Rd SE, Tumwater WA 98501	360-236-2820

**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: Allyson Clayborn

Address: PO Box 47850

Olympia, WA 98504

Phone: 360-236-2820

Fax: 360-236-2901

TTY: 711

Email: medicalmarijuana@doh.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)(e)  
(Dictated by statute)

RCW 34.05.310 (4)(c)  
(Incorporation by reference)

RCW 34.05.310 (4)(f)  
(Set or adjust fees)

RCW 34.05.310 (4)(d)  
(Correct or clarify language)

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: Proposed changes to WAC 246-72-030, 246-72-050, 246-72-080, and 246-72-090 are exempt under RCW 34.05.310(4)(d).

WAC 246-72-010, Definitions. Proposed changes to this section do not meet the definition of a significant rule under RCW 34.05.328(5)(c)(iii). Defined terms do not set standards, rather they are intended to provide clarity of the meaning of the terms used throughout the chapter.

**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.

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:

In response to a rule petition, the department is proposing amendments to portions of the chapter regarding continuing education (CE) for certified consultants. This includes a possible two hour required course provided by the department, consideration of self-study programs, and clarifying specific topics to be included in each training.

Additionally, the department is proposing amendments to chapter 246-72 WAC to clarify the following: (1) Terms such as "designated provider" and "qualifying patient;" (2) Practice parameters of a certified consultant (e.g., assisting medical marijuana cardholders with their purchases); (3) Education and other requirements to be an instructor of an initial consultant training course; and (4) Correcting citations and other house-keeping items.

The overall goal of this proposal is to ensure certified consultants have a solid understanding of their role and knowledge of industry regulations, rules, and laws in order to ensure accurate information is being shared on the front end with the qualifying patients, designated providers, and consumers they are assisting.

The following businesses are required to comply with the proposed rule. The North American Industry Classification System (NAICS) codes are used and the minor cost thresholds are identified.

NAICS Code: 611710

NAICS Business Description: Educational support services

# of businesses in WA: 1,220

Minor Cost Threshold = 1% of Average Annual Payroll: \$3,009.92

Minor Cost Threshold = .3% of Average Annual Receipts: \$1,185.90

Analysis of the probable cost of compliance. The following identifies the probable costs to comply with the proposed rule, including: cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

### 1. Amending WAC 246-72-100 - Continuing Education

Description of the proposed rule: A medical marijuana consultant certificate holder must complete 10 hours of continuing education in order to renew their annual certification. The proposed rule amendments require two of the 10 hours be provided by the department at no cost to the consultant. The topics may include cannabis compliant products, cannabis laws and rules, and consultant roles and responsibilities. For the remaining eight hours of required continuing education, the proposed rule adds self-study to in-person and distance learning as another method to obtain hours. Self-study would be limited to two hours of the total 10 required hours.

Cost: There are no anticipated additional costs imposed by the rule proposal. There are potential cost savings for the certified consultants. The two-hour training program offered by the department and required as part of the annual continuing education will be provided at no cost to the consultant and would only require the consultant's time. The same is true for the two hours of self-study, which would be at no anticipated additional cost but a potential cost savings to the consultant and would only require the consultant's time.

### 2. Amending WAC 246-72-110 - Training program requirements

Description of the proposed rule: Medical marijuana consultant training programs go through an approval process administered by the department. The proposed rule clarifies the minimum level of subject matter to be included in the five hours of training dedicated to Washington State laws and rules. These include purchase and possession limits, pesticide use, medical marijuana authorization process, and labeling and testing requirements. The proposed rule amendment specifies that the department must be notified if an instructor of a training course is placed on a disciplinary order. Also, the proposal expands the list of potential instructors to include those with a bachelor's degree and at least seven years of verified experience in the regulated cannabis industry.

Cost: The proposed rule is anticipated to have a cost impact to the state-approved training programs. We contacted the 3 state-approved training programs about potential costs to them due to amending this rule. Two of the three training programs indicated they will only need one to two hours of staff time to update references and make small adjustments. The department estimates that staff are making \$43.27 per hour and therefore the anticipated one-time costs range from \$43.27 to \$86.54. One-time cost is defined as a cost that will occur only once and will not be repeated. One of the three training programs indicated that they will hire an attorney at a rate of \$200 per hour for an anticipated eight hours to make the changes required for compliance with the proposed rule. This training program indicated the proposed rule may cost \$1,600 for compliance. While this business may choose to hire professional services, the rule amendments do not require a training program to hire an attorney to make the proposed changes.

### 3. Amending WAC 246-72-120 - Approval of training program.

Description of the proposed rule: The proposed rule would require an authorized representative from the state-approved medical marijuana consultant training programs to report any change of the instructor's credential to the department.

Cost: The proposed rule will have no anticipated cost impact to the initial training programs. A representative from the training programs is already required to report any changes from their initial application to the department and the proposed rule change only adds one additional item that would need to be reported should a change in the instructor's license status occur.

Cost Summary: Due to amending training program requirements in WAC 246-72-110, the department anticipates labor costs will be necessary from state-approved training programs to comply with the proposed rule. Two of the three existing state approved medical marijuana consultant training programs have indicated the updates should take just a few hours of the program staff's time (total cost per program \$43.27 to \$86.54), and one training program has indicated they would hire an attorney who charges an hourly rate of \$200 per hour, for a total of 8 hours (total cost per program \$1,600) to make the updates to the training program, in order to comply with the amendments.

The following analyzes whether the proposed rule may impose more than minor costs on businesses in the industry.

Out of the three existing state-approved programs, one program provided estimates that the cost to comply to the amended rules (\$1,600) would impose more than minor-costs (\$1,186) on businesses.

The proposed rules clarify which topics are required under the five hours of Washington State laws and rules that already exist in rule. Two of the three programs have indicated they already include the proposed topics, they would just want to re-organize the content to ensure they are clearly meeting the proposed new requirements. One of the three businesses (the business that falls above the minor-cost threshold) indicated they will hire an attorney to make the changes required in the proposed rule. While this business may choose to hire professional services, the rule amendments do not require a training program to hire an attorney to make the proposed changes.

Determination of whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Based on this analysis this would not create a disproportionate impact on smaller businesses because larger businesses in the industry do not exist at this time. The entire industry in Washington State of medical marijuana consultant training programs consists of three small businesses


The proposed rule does not have a disproportionate impact on small businesses because there are no large businesses to compare the impact of the smaller businesses against.

The three training programs in Washington state were involved in the development of the proposed rule throughout the process. Department staff worked closely with interested parties to collect input that informs rule revisions concerning the medical marijuana consultant certification program. Mutual interests were identified and considered through deliberations.

It is not estimated that any jobs will be lost or created as a result of compliance with the proposed rule. The scope of this rule is small and would not necessitate a full-time-employee to implement or maintain changes needed to their programs. This would be a maximum of 8 hours total to implement the changes through the proposed rules.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Allyson Clayborn  
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Phone: 360-236-2820  
Fax: 360-236-2901  
TTY: 711  
Email: medicalmarijuana@doh.wa.gov  
Other:

<b>Date:</b> 01/13/2022	<b>Signature:</b> 
<b>Name:</b> Kristin Peterson, JD for Umair A. Shah, MD, MPH	
<b>Title:</b> Deputy Secretary for Policy and Planning for Secretary of Health	

AMENDATORY SECTION (Amending WSR 16-07-086, filed 3/17/16, effective 3/18/16)

**WAC 246-72-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Approved training program" means a school, college, or program approved by the secretary that meets the requirements of this chapter.

(2) "Certificate holder" means a person holding a valid medical marijuana consultant certificate issued by the secretary under chapter 69.51A RCW and this chapter.

(3) "Customer" means any patron of a retail outlet licensed under RCW 69.50.354 and holding a medical endorsement under RCW 69.50.375.

(4) "Department" means the Washington state department of health.

(5) "Designated provider" means the same as defined in RCW 69.51A.010.

(6) "Marijuana product" means marijuana, marijuana concentrates, usable marijuana, and marijuana-infused products as defined in RCW 69.50.101.

~~((+6))~~ (7) "Qualifying patient" or "patient" means the same as defined in RCW 69.51A.010.

(8) "Secretary" means the secretary of the department of health or the secretary's designee.

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

**WAC 246-72-030 Practice parameters.** (1) A certificate holder may only provide services when acting in the capacity of an owner, employee, or volunteer of a retail outlet licensed under RCW 69.50.354 and holding a medical endorsement under RCW 69.50.375.

(2) A certificate holder may:

(a) Perform regular job duties and business functions including, but not limited to, assisting a customer with the selection of marijuana product and other items sold at the retail outlet;

(b) Assist a ~~((customer))~~ qualifying patient or designated provider with the following:

(i) Selection of marijuana products and other items sold at the retail outlet that may benefit the ~~((customer's))~~ qualifying patient's terminal or debilitating medical condition;

~~((b) Describe))~~ (ii) Understanding the risks and benefits of marijuana products and other items sold at the retail outlet;

~~((e) Describe))~~ (iii) Understanding the risks and benefits of methods of administration of marijuana products sold at the retail outlet. Whenever practicable, a certificate holder shall encourage methods of administration other than smoking;

~~((d) Advise a customer))~~ (iv) Advice about the safe handling and storage of marijuana products, including strategies to reduce access by minors; ~~((and~~

~~(e) Provide))~~ (v) Instruction and demonstration ~~((to a customer))~~ about proper use and application of marijuana products ~~((. However, nothing in this section allows a certificate holder to:~~

~~(i) Provide free samples of a marijuana product to a customer except pursuant to RCW 69.50.375;~~

~~(ii) Open or allow a customer to open a marijuana product on the premises;~~

~~(iii) Consume or allow a customer to consume a marijuana product on the premises); and~~

(vi) Processing the medical marijuana authorization form for the purpose of adding the qualifying patient or designated provider to the database according to WAC 246-71-020.

(3) When discussing a marijuana product with a ~~((customer))~~ qualifying patient or their designated provider, a certificate holder shall refer to the product using the cannabinoid profile labeling required by the Washington state liquor and cannabis board in addition to the represented strain name.

(4) A certificate holder shall not:

(a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of marijuana products or any other means or instrumentality;

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of marijuana products;

(c) Solicit or accept any form of remuneration directly or indirectly, overtly or covertly, in cash or any other form in return for recommending a certain product, producer, processor, clinic, or health care practitioner;

~~(d) ((Provide medical marijuana consultant services in any capacity other than as an owner, employee, or volunteer of retail outlets licensed under RCW 69.50.354 and holding a medical endorsement under RCW 69.50.375;~~

~~(e)) Provide medical marijuana consultant services at any location other than at retail outlets licensed under RCW 69.50.354 and holding a medical endorsement under RCW 69.50.375 for which the certificate holder serves as an owner, employee, or volunteer; ((or~~

~~(f)) (e) Create ((his or her)) their own recognition card pursuant to chapter 246-71 WAC;~~

(f) Provide free samples of a marijuana product to a customer except pursuant to RCW 69.50.375;

(g) Open or allow a customer, including qualifying patients and designated providers to open a marijuana product on the premises; or

(h) Consume or allow a customer, including qualifying patients and designated providers, to consume any marijuana product on the premises.

AMENDATORY SECTION (Amending WSR 16-07-086, filed 3/17/16, effective 3/18/16)

**WAC 246-72-050 Cooperation with investigation.** (1) The secretary will notify an applicant or credential holder upon receipt of a complaint, except when the notification would impede an effective investigation. Upon request by the secretary, the applicant or credential holder shall submit a written statement about that complaint.

(2) An applicant or certificate holder must produce documents, records, or other items that are within ~~((his or her))~~ their posses-



sion or control within (~~twenty-one~~) 21 calendar days of service of a request by the secretary. If the (~~twenty-one~~) 21 calendar day limit results in a hardship upon the applicant or credential holder, (~~he or she~~) they may request, for good cause, an extension not to exceed (~~thirty~~) 30 additional calendar days.

(3) Failure to submit a full and complete written statement explaining the matter contained in a complaint pursuant to subsection (1) of this section or to comply with a request made pursuant to subsection (2) of this section may result in action by the secretary to refuse the application or revoke or suspend the certificate.

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

**WAC 246-72-080 Renewals and updating license information.** (1) Certificates must be renewed every year on the certificate holder's birthday. Initial certificates issued within (~~ninety~~) 90 days of the certificate holder's birthday do not expire until the person's next birthday.

(2) Renewals:

(a) Prior to the certificate expiration date, courtesy renewal notices are mailed to the address on file. Certificate holders must return the renewal notice when renewing their credential. Failure to receive a courtesy renewal notice does not relieve or exempt the renewal requirement.

(b) The certificate holder must attest to completion of annual certification requirements, including current CPR certification as outlined in WAC 246-72-020.

(c) Renewal fees are accepted by the department no sooner than (~~ninety~~) 90 days prior to the expiration date.

(3) Duplicate certificate: A certificate holder may obtain a duplicate certificate by submitting a written request to the department and paying the fee as required in WAC 246-72-990.

(4) Name changes: It is the responsibility of each certificate holder to maintain (~~his or her~~) their correct name on file with the department. Requests for name changes must be submitted in writing to the department along with documentation showing the name was legally changed.

(5) Address changes: It is the responsibility of each certificate holder to maintain (~~his or her~~) their current address on file with the department. Requests for address changes must be made in writing. The mailing address on file with the department will be used for mailing of all official matters to the certificate holder.

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

**WAC 246-72-090 Expired certificate.** (1) A certificate holder may not practice at any time while (~~his or her~~) their certificate is expired. The certificate is expired if the certificate holder does not renew on or before the expiration date. Any renewal that is postmarked

or presented to the department after midnight on the expiration date is expired and is subject to a late renewal penalty fee.

(2) If the certificate has been expired for more than three months and less than three years, the certificate holder must:

(a) Complete a late renewal application form;

(b) Pay the renewal fee;

(c) Pay the late renewal penalty fee;

(d) Pay the expired certificate reissuance fee;

(e) If requested by the secretary, provide proof of successful completion of required continuing education (~~under~~) as defined in WAC 246-72-100;

(f) Provide proof of current CPR certification as defined in WAC 246-72-020; and

(g) Provide any other documentation required by the secretary.

(3) If the certificate has been expired for three years or more, the certificate holder must:

(a) Complete an initial application form;

(b) Pay the current application fee;

(c) Retake and provide proof of successful completion of (~~an ap-~~  
~~proved~~) a training program approved under WAC 246-72-110 within the prior six months;

(d) Provide proof of current CPR certification; and

(e) Provide any other documentation required by the secretary.

AMENDATORY SECTION (Amending WSR 16-07-086, filed 3/17/16, effective 3/18/16)

**WAC 246-72-100 Continuing education.** (1) A certificate holder(~~s~~) must complete a minimum of (~~ten~~) 10 hours of continuing education each year in order to renew the certificate.

(2) Two of the 10 hours must be successful completion of a two-hour continuing education course offered by the department.

(3) Eight of the 10 continuing education hours may be earned through seminars, lectures, workshops, and professional conferences. Continuing education credits may be earned through in-person (~~or~~), distance learning, or self-study.

(a) Distance learning includes correspondence courses, webinars, audio/video broadcasting, audio/video teleconferencing e-learning, or webcasts.

(b) Self-study includes the use of multimedia devices or the study of books, research materials, marijuana industry tours or other publications. To receive credit for self-study, the credential holder shall draft and provide a one page, single spaced, 12-point font synopsis of what was learned. The time spent writing the synopsis is not reportable. Two hours of credit is allowed per report, and no more than one report may be submitted per reporting period.

(4) (a) Acceptable continuing education topics (~~are~~) for the hours required in subsection (3) of this section include:

(~~(a)~~) (i) Washington state laws and rules relating to marijuana;

(~~(b) Science-based~~) (ii) Scientific research, studies, or similar information about marijuana;

(~~(e)~~) (iii) Addiction and substance abuse;

(~~(d)~~) (iv) Patient communication skills;

~~((e))~~ (v) Professional ethics and values;  
(vi) Pesticides and chemicals in the context of marijuana agriculture; or

(vii) Qualifying medical conditions.

~~((3))~~ (b) Continuing education topics may not include:

~~((a))~~ (i) Business and management courses;

~~((b))~~ (ii) Health care training unrelated to marijuana; or

~~((e))~~ (iii) Any topic unrelated to the practice parameters of a medical marijuana consultant.

~~((4))~~ (5) Continuing education hours ~~((will))~~ may not be carried over from one reporting period to another.

~~((5))~~ (6) A certificate holder ~~((must))~~ shall provide acceptable documentation of completion of continuing education hours upon request of the secretary or an audit. Acceptable forms of documentation ~~((are))~~ include:

(a) Transcripts;

(b) Certificate of completion; ~~((or))~~

(c) If applicable for self-study, a type-written essay in accordance with subsection (3)(b) of this section; or

(d) Other formal documentation, which include ~~((s))~~ the following:

(i) Participant's name;

(ii) Course title;

(iii) Course content;

(iv) Date(s) of course;

(v) ~~((Provider's))~~ Course provider's or instructor's name(s); and

(vi) Signature of the program sponsor or course instructor. Distance learning courses and self-study activities outlined in subsection (3)(b) of this section are exempt from the signature requirement.

~~((6))~~ (7) A certificate holder ~~((must))~~ shall verify compliance by submitting a signed declaration of compliance.

~~((7))~~ (8) At the secretary's discretion, up to ~~((twenty-five))~~ 25 percent of certificate holders ~~((are))~~ may be randomly audited for continuing education compliance after ~~((the))~~ a credential is renewed. If identified for an audit, it is the certificate holder's responsibility to submit documentation of completed continuing education activities at the time of the audit. Failure to comply with the audit documentation request or failure to supply acceptable documentation within ~~((sixty))~~ 60 days may result in licensing action, up to and including suspension or revocation of the certificate.

~~((8))~~ (9) A certificate holder must maintain records of continuing education completion for at least four years.

AMENDATORY SECTION (Amending WSR 18-07-030, filed 3/12/18, effective 4/12/18)

**WAC 246-72-110 Training program requirements.** (1) A training program ~~((s))~~ must include:

(a) A minimum of ~~((twenty))~~ 20 total instruction hours in the following subjects:

(i) A minimum of five hours ~~((about))~~ of instruction on Washington state laws and rules relating to marijuana to include, but not be limited to, the following topics:

(A) Qualifying patient and designated provider cannabis home grow laws;

(B) Patient and designated provider marijuana purchase and possession limits;

(C) Marijuana product compliance, quality assurance testing, and labeling requirements, including pesticide labeling as defined under chapter 246-70 WAC;

(D) Pesticide use on cannabis products; and

(E) The medical marijuana authorization process;

(ii) A minimum of two hours (~~(about)~~) on qualifying conditions and the common symptoms of each;

(iii) A minimum of two hours (~~(about)~~) on the short- and long-term positive and negative effects of cannabinoids;

(iv) A minimum of five hours (~~(about)~~) on products that may benefit qualifying patients based on the patient's condition, any potential contraindications and the risks and benefits of various routes of administration;

(v) A minimum of two hours (~~(about)~~) on safe handling of marijuana products, including strategies to reduce access by minors;

(vi) A minimum of two hours (~~(about)~~) on ethics and ~~((customer))~~ patient privacy and rights; and

(vii) A minimum of two hours (~~(about)~~) on the risks and warning signs of overuse, abuse and addiction.

(b) An examination comprised of at least five questions for each hour of instruction must be given for each subject. The applicant must pass the examination for each subject with a minimum score of ~~((seventy))~~ 70 percent. Questions must be randomly selected from a sufficient supply of questions to ensure the validity of the examination. The secretary reserves the right to approve or deny individual questions and answers.

(2) Training may be provided in-person or electronically. If the training is provided electronically, students must have real-time access to the instructor during at least half of the instruction hours for each subject.

(3) Instructors must have demonstrated knowledge and experience related to marijuana and to the subject matter, and hold:

(a) An active license to practice as a health care professional as defined in RCW 69.51A.010(5). A licensee whose credential is placed under a disciplinary order must request review and secretary approval to begin or continue as an instructor for the approved training program;

(b) An active license to practice law in the state of Washington;

(c) A bachelor's degree or higher from an accredited college or university in:

(i) Agriculture, botany, or horticulture; (~~(or~~

~~(d) A bachelor's degree or higher in))~~ (ii) Nursing (~~(and)~~), provided the instructor also holds an active license to practice as a registered nurse under chapter 18.79 RCW; or

(iii) Any other discipline, provided the intended instructor also submits a curriculum vitae with a written statement which demonstrates at least seven years of experience in the regulated cannabis industry.

(4) An owner, agent, principal, or instructor of a training program shall not have a direct or indirect financial interest in a marijuana business licensed by the Washington state liquor and cannabis board under chapter 69.50 RCW.

**WAC 246-72-120 Approval of training program.** The secretary will consider for approval any training program which meets the requirements as outlined in this chapter.

(1) The authorized representative of the training program shall request approval on an application provided by the department.

(2) The application for approval of a training program must include, but is not limited to, documentation required by the secretary (~~(pertaining)~~) related to:

(a) Detailed syllabus;

(b) Identification and qualifications of instructors;

(c) Training locations and facilities;

(d) Outline of curriculum plan specifying all subjects, and the length in hours each subject is taught;

(e) Class objectives;

(f) Whether the training will be provided in-person or electronically;

(g) Methods of evaluating the course and instructors by the training program and training participants;

(h) Policies and procedures for maintaining training and testing records; and

(i) A sample of the training program's certificate of successful completion. At minimum, the certificate must contain the following information:

(i) Name and license number of the training program;

(ii) Name of the student; and

(iii) Date the student successfully completed the program.

(3) Any training program that is required to be licensed by private vocational education under chapter 28C.10 RCW or Title 28B RCW, or any other statute, must complete these requirements before being considered by the secretary for approval.

(4) The secretary will evaluate the application and may conduct a site inspection of the training program prior to granting approval.

(5) Upon the evaluation of a complete application, the secretary will grant or deny approval.

(6) If the secretary notifies the training program of the secretary's intent to deny an application, the training program, through its authorized representative, may request an adjudicative proceeding. A request for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice and be served on and received by the department within (~~(twenty-eight)~~) 28 days of the applicant's receipt of the adverse notice. The authorized representative of the training program may submit a new application for the secretary's consideration.

(7) Training and testing records must be kept for a minimum of three years. The secretary may audit the records at any time.

(8) The authorized representative of an approved training program shall notify the secretary in writing of all changes with respect to information provided in the application, including changes in instructors or the instructor's credential status, within (~~(thirty)~~) 30 days of such changes.

(9) The secretary may inspect, audit or review an approved training program at reasonable intervals for compliance or to investigate a complaint. The secretary may withdraw approval if the secretary finds

failure to comply with the requirements of statute, administrative rules, or representations in the application.

(10) If the secretary notifies an approved training program of the secretary's intent to revoke approval, the training program, through its authorized representative, may request an adjudicative proceeding. A request for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice and be served on and received by the department within (~~twenty-eight~~) 28 days of the applicant's or license holder's receipt of the adverse notice. If a request for adjudicative proceeding is not received by the department within (~~twenty-eight~~) 28 days of the date of the training program's receipt of the adverse notice, the secretary's decision is final. The authorized representative of the training program must provide proof that the deficiencies which resulted in withdrawal of the secretary's approval have been corrected before requesting reapproval. Training programs seeking reapproval shall follow the requirements outlined in this section.