

Significant Legislative Rule Analysis

WAC 246-817-510, 520, 525, 540, and 545
Rules Concerning Dentist delegation of duties to
dental assistants and expanded function dental
auxiliaries

March 16, 2016

SECTION 1:

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

The Dental Quality Assurance Commission (commission) proposed rule amendments update the scope of practice (listing of allowable and prohibited tasks that may and may not be performed) for registered dental assistants and licensed expanded function dental auxiliaries (EFDAs). The scope of practice (list of allowable and prohibited tasks) has been an area of confusion for licensed dentists, registered dental assistants, and licensed EFDAs. A key area that required clarification identified was that a sterilization technician is required to be a registered dental assistant to preform sterilization tasks. Other areas of clarification included delegation of:

- Cement removal;
- Identified types of impressions including digital scans;
- Placing cavity liners and bases;
- Bonding attachments for clear removable orthodontic aligners;
- Starting and stopping the flow of nitrous oxide;
- Using high speed versus slow speed hand pieces; and
- Taking patient health histories.

Proposed rule amendments clarify what tasks dentists are currently delegating to registered dental assistants in dental facilities. Proposed rule amendments eliminate confusion of allowable and prohibited tasks for dental professionals and the public receiving dental care.

SECTION 2:

Is a Significant Analysis required for this rule?

Yes, as defined in RCW 34.05.328 the proposed rule requires a significant analysis. The proposed rule amendments subject a licensed dentist, registered dental assistant, and licensed expanded function dental auxiliary to a penalty or sanction for violation of rules.

SECTION 3:

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

RCWs 18.260.040 and 18.260.070 requires the commission to adopt rules relating to the scope of dental assisting and expanded function dental auxiliary services related to patient care and laboratory duties. Although the proposed rule amendments are not in direct response to Senate Bill (SB) 5606 (chapter 20, Laws of 2015). SB 5606 provides the Dental Quality Assurance Commission (commission) with statutory authority to allow delegation of identified types of impressions. Proposed rule amendment WAC 246-817-520 (4) (v) and (w) is based on SB 5606.

SECTION 4:

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

The commission has identified the need to provide clarity in duties that a licensed dentist may delegate to a registered dental assistant and a licensed expanded function dental auxiliary.

Rules are necessary to clarify and amend the list of tasks to current practice standards eliminating confusion for dental professionals and the public receiving dental care. If the proposed rule amendments are not adopted, the commission will be hampered in its ability to provide clear requirements for acceptable delegation of tasks.

SECTION 5:

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

Rule Overview – WAC 246-817-510 Definitions

The proposed rule amendments change five definitions, deletes one unnecessary definition, and corrects wording in four definitions.

- Close supervision definition amendment is consistent with RCW 18.260.010.
- Coronal polishing definition amendment includes moving the dentists responsibility for evaluation to prior to dismissing the patient to the list of allowable task as it is a condition of the task not defining the term.
- General supervision definition amendment is consistent with RCW 18.260.010.
- Luxation definition amendment deletes a sentence that refers to what luxation is not. It is unnecessary.

- Suturing definition amendment deletes a sentence that refers to what suturing is not. It is unnecessary.
- Noncredentialed person definition is deleted as it is not necessary.
- Elevating soft tissue, incising, oral prophylaxis, and volunteer dental assistant definitions wording and grammar are corrected.

Rule Cost/Benefit Analysis

There is no cost for licensed dentists, registered dental assistants, or licensed expanded function dental auxiliaries to comply with this proposed rule. The benefit of the proposed rule provides clarity to definitions.

Rule Overview – WAC 246-817-520 Supportive services that may be performed by registered dental assistants.

The proposed rule amendments update the list of tasks a dentist may delegate to a registered dental assistant with the following:

- The complete list is reorganized to follow the order of tasks/procedures that typically take place in a dental office and group like tasks.
- Added clarity to the introduction paragraphs:
 - Direct statute language from RCW 18.260.040 to clarify a dentist responsibility to ensure a dental assistant has demonstrated skills necessary to perform the task being delegated.
 - Tasks not listed may be subject to discipline.
 - Dental assistants may perform nonclinical tasks.
- Four tasks related to taking of impressions were combined into one task item detailing specific allowable impression a dentist may delegate to a dental assistant.
- Deleted at a subsequent appointment for polish restorations.
- Added perform apply bonding agents to acid etch.
- Reworded taking of x-ray film to place, expose, and process radiographs.
- Deleted take health histories.
- Added clarifying language for the assist in administration of inhalation minimal sedation.
- Added fit orthodontic bands to select.
- Added removing orthodontic cement and orthodontic bonded resin material to fixed orthodontic appliances.
- Added new task - taking digital scans.
- Added new task - bond attachments for clear removable orthodontic aligners.
- Added new task - place cavity liners and bases.
- Added new task - sterilize equipment and disinfect operatories.

Rule Cost/Benefit Analysis

There is no cost for licensed dentists or registered dental assistant to comply with this proposed rule. The proposed rule details specific supportive services a dentist may delegate to a registered dental assistant under close supervision. The benefit of the proposed rule amendment clarifies what tasks dentists are currently delegating in dental facilities. Additionally, the benefit of proposed rule amendments eliminates confusion of allowable tasks for dental professionals and the public receiving dental care.

Rule Overview – WAC 246-817-525 Supportive services that may be performed by expanded function dental auxiliaries (EFDAs).

The proposed rule modifies the list of duties a dentist may delegate to a licensed expanded function dental auxiliary with the following:

- Added clarity to the introduction paragraphs:
 - Direct statute language from RCW 18.260.070 to clarify a dentists responsibility to ensure an EFDA has demonstrated skills necessary to perform the task being delegated.
 - Tasks not listed may be subject to discipline.
- EFDAs may perform nonclinical tasks. Deleted duplicate tasks already listed in WAC 246-817-520, added a reference to WAC 246-817-520 as allowable which includes new tasks added to WAC 246-817-520.
- Reworded taking of x-ray film to place, expose, and process radiographs.

Rule Cost/Benefit Analysis

There is no cost for licensed dentists or licensed expanded function dental auxiliary to comply with this proposed rule. The benefit of the proposed rule provides detailed supportive services a dentist may delegate to a licensed expanded function dental auxiliary under close or general supervision. The benefit of the proposed rule amendments clarify what tasks dentists are currently delegating in dental facilities. Additionally, the benefit of proposed rule amendments eliminate confusion of allowable tasks for dental professionals and the public receiving dental care.

Rule Overview – WAC 246-817-540 Acts that may not be performed by registered dental assistants.

The proposed rule modifies the list of tasks a dentist may not delegate to a registered dental assistant with the following:

- Added clarifying language in the introduction paragraph.
- Added reference to WAC 246-817-520 related to taking of impressions.
- Combined and reworded intra-orally adjust and finish permanent inlays, crowns, and bridges.

Rule Cost/Benefit Analysis

There is no cost for licensed dentists or registered dental assistant to comply with this proposed rule. The proposed rule details specific tasks a dentist may not delegate to a registered dental assistant. The benefit of proposed rule amendments eliminate confusion of prohibited tasks for dental professionals and the public receiving dental care.

Rule Overview – WAC 246-817-545 Acts that may not be performed by expanded function dental auxiliaries (EFDAs).

The proposed rule modifies the list of tasks a dentist may not delegate to a licensed expanded function dental auxiliary with the following:

- Added clarifying language in the introduction paragraph.
- Combined and reworded intra-orally adjust and finish permanent restorations.

Rule Cost/Benefit Analysis

There is no cost for licensed dentists, registered dental assistant, or licensed expanded function dental auxiliary to comply with the proposed rules. The proposed rules detail specific tasks a dentist may not delegate to a licensed expanded function dental auxiliary. The benefit of proposed rule amendments is to eliminate confusion of prohibited tasks for dental professionals and the public receiving dental care.

SECTION 6:

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

WAC 246-817-510 Definitions for WAC 246-817-501 through 246-817-570.

Description of alternatives considered

One alternative considered did not modify the luxation definition.

WAC 246-817-520 Supportive services that may be performed by registered dental assistants.

Descriptions of alternatives considered

The commission considered multiple alternatives during the rule drafting process:

- Not to include “place cavity liners and bases”.
- Requiring training for specific tasks.
- Including a prohibition on use of high speed hand pieces.

- Including non clinical tasks.
- Not including taking of digital scans.
- Not reorganizing the list of allowable tasks.

WAC 246-817-525 Supportive services that may be performed by expanded function dental auxiliaries (EFDAs).

Descriptions of alternatives considered

One alternative considered leaving the complete list of dental assistant tasks listed in the EFDA list. The commission determined a statement referencing WAC 246-817-520 was appropriate and the list did not need to be restated in this rule.

WAC 246-817-540 Acts that may not be performed by registered dental assistants.

Descriptions of alternatives considered

One alternative considered did not include the exception for taking of impressions listed in WAC 246-5817-520. Another alternative did not include combining and rewording intra-orally adjust and finish permanent inlays, crowns, and bridges. Additionally, the commission considered dentist comments requesting prohibition on use of high speed hand pieces by registered dental assistants. The commission determined to add a statement related to the dentist must ensure the registered dental assistant had the skill to perform the task being delegated.

WAC 246-817-545 Acts that may not be performed by expanded function dental auxiliaries (EFDAs).

Description of alternatives considered

One alternative considered did not include combining intra-orally adjust and finish permanent inlays, crowns, and bridges.

Overall least burdensome determination

The proposed rule is the least burdensome option as it provides clear definitions, expectations, and lists tasks in a comprehensive order for licensed dentists, registered dental assistants, and licensed expanded function dental auxiliary that eliminates confusion.

- The commission added place cavity liners and bases with significant discussion on whether or not it violated a prohibition in RCW 18.260.040 and 18.260.070 “Any removal of or addition to the hard or soft tissue of the oral cavity.” The commission determined in consultation with their advising assistant attorney general it did not violate the statute prohibition.
- The commission did not prohibit use of high speed hand pieces. The commission agrees a dentist is responsible for ensuring a dental assistant is skilled in the task being performed and prohibitions are on tasks, not tools used to perform tasks.
- The commission did not include training for dental assistants as chapter 18.260 RCW does not provide statutory authority to require training.

- The commission removed nonclinical tasks as a credential is not necessary to perform nonclinical tasks.
 - The commission chose to include allowing digital scans as there is minimal to no risk of harm to the public. A dentist is responsible to evaluate the scan before impressions are made whether taken digitally or by conventional methods.
 - The commission reorganized the list of allowable tasks to provide dental professionals a comprehensive list in a typical order of tasks that take place in a dental office.
 - The commission chose to combine intra-orally adjust and finish permanent inlays, crowns, and bridges because the two tasks are performing the same function for different purposes and should be listed as one task. Rewording the task in WAC 246-817-540 was necessary as inlays, crowns, and bridges are collectively considered a restoration. It was not reworded in WAC 246-817-545 because EFDAs are allowed to place and carve direct restorations.
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SECTION 7:

Determine that the rule does not require those to whom it applies to take an action that violates requirements of 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 8:

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The rule does not impose more stringent performance requirements on private entities than on public entities.

SECTION 9:

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, 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 10:

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

There are no other applicable laws.