

WSR 21-08-049

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed April 2, 2021, 1:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-01-072

Title of Rule and Other Identifying Information: WAC 246-843-990 Nursing home administrator fees and renewal cycle, 246-810-990 Counselors fees and renewal cycle, and 246-849-990 Ocularists fee and renewal cycle. The department of health (department) is proposing to increase the licensing fees charged to the specified professions and to align other fees with department policy.

Hearing Location(s): On May 13, 2021, 1:30 p.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, 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.

Please register for the meeting at the link below <https://attendee.gotowebinar.com/register/1003383938241392654>.

You can also dial in using your phone. Phone number: +1 (914) 614-3221, Access Code: 993-561-986.

Date of Intended Adoption: May 20, 2021.

Submit Written Comments to: Cori Tarzwell, Washington State Department of Health, P.O. Box 47850, Olympia, WA 98504-7850, email <https://fortress.wa.gov/doh/policyreview>, HSQAfeerules@doh.wa.gov, by May 13, 2021.

Assistance for Persons with Disabilities: Contact Cori Tarzwell, phone 360-833-6388 or 711, TTY 711, email cori.tarzwell@doh.wa.gov, by May 7, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Current fees are not generating sufficient revenue to keep the certified counselor/advisor, nursing home administrator, and ocularist programs self-supporting. The forecasted revenue for the certified counselor/advisor program is insufficient to recover the program's accumulated debt of nearly \$1.1 million and build adequate reserves. The forecasted revenue for the nursing home administrator program is insufficient to recover the program's accumulated debt of nearly \$400,000 and maintain adequate reserves. While the ocularist program ended the 2019 fiscal year with a positive fund balance of \$131, the balance is forecasted to decline over the next six years, resulting in an estimated fund deficit of approximately \$8,700 by June of 2026.

Professions need to maintain a reserve that is based on level of risk including revenue stability, disciplinary trends, and size of the profession, in order to cover unanticipated costs. In addition to funding adequate reserves, the proposed fee increases are projected to bring licensing revenues in alignment with the actual costs of regulating these professions and maintain a positive program fund balance. The department is also proposing adjustments to bring the late renewal penalty in line with agency standards to ensure consistency across the health professions.

Additionally, this proposal reflects the office of financial management requirement that agencies maintain a reasonable working capital reserve.

Reasons Supporting Proposal: RCW 43.70.250 requires the cost of each licensing program to be fully borne by the profession's members and licensing fees to be based on the licensing program's costs. The department has also developed standards to ensure we apply consistent late renewal fees across professions. This rule package also aligns late renewal fees consistent with these standards.

For the nursing home administrator program, the goal of the two proposed fee increases (20% in 2021 and 17% in 2022) is to ensure current and future operations, as well as to gradually decrease the program's negative fund balance. Total spending also increased at an average annual rate of seven percent from fiscal year 2016 to fiscal year 2019. Growth during this period was largely due to a forty-one percent increase in operations costs from 2017 to 2018. Originally, the department presented the necessary fee increase to the Board of Nursing Home Administrators (board) as a single, one-time fee increase. The board discussed the potential impacts to the profession of one large increase and requested the department consider breaking the fee into two increases to lessen the impact of the increase on licensees. The department determined this option was viable and agreed to a staged increase occurring over two years. While this increase would not result in the program reaching its target fund balance within the next six years, it has been determined the fee increase required to bring the program into full statutory and department policy compliance would likely result in a reduction in revenue to an unsustainable level for the program.

The certified counselor/advisor program's inception in 2010 created a large deficit as startup costs greatly exceeded revenues. Since then, program costs have exceeded revenues by an average of \$280,000 annually from fiscal year 2011 through fiscal year 2015, and \$43,000 annually since 2016. As a result, the program has accumulated a negative fund balance of nearly \$1.1 million. Additionally, the program's licensee base declined seven percent over the last five years, reducing licensees from 633 to 471 and costing the program an estimated \$35,000 in anticipated revenue. Program expenditures are also expected to gradually increase due to inflation. With the high costs of this program, a decline in potential revenue from a diminishing licensee base only further exacerbates the declining fund balance.

Due to the small size of the ophthalmologist profession, the department is projecting no revenue growth through 2026. Expenditures are projected to rise 1.5 percent per year due to general cost inflation. In fiscal year 2016, the program received two associated complaints concerning a scope of practice and supervisory issue, costing the program half of its annual expenditures for 26.9 billed hours of investigation. The costs of this disciplinary action is seen in the increased enforcement costs of 2017. Operations costs increased in 2018 and 2019 due to program staff consulting the attorney general's office concerning a comprehensive periodic review (required every five years) of health professions rules; as part of that review, at least four well-attended stakeholder meetings also explored the professions fee structures. Based on the financial outlook, the fund balance will continue to decline and decrease below zero by 2021 as expenditure growth outpaces revenues. Therefore, the department concludes that current fees are not enough to sustain the cost of operating the program.

In addition, the state auditor's office (SAO) published their performance audit report, "Aligning Healthcare Professional Fees with Licensing Costs," in November 2018, to examine if the department aligns the fees it charges to healthcare professions with the costs of

licensing. In response, the department is developing processes to review fees more consistently and enhance transparency of fund balances and fee setting.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.280.

Statute Being Implemented: RCW 43.70.250 and 43.70.280.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cori Tarzwell, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4981.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328 (5) (b) (vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

April 1, 2021
 Jessica Todorovich
 Chief of Staff
 for Umair A. Shah, MD, MPH
 Secretary

OTS-2849.3

AMENDATORY SECTION (Amending WSR 18-01-098, filed 12/18/17, effective 4/1/18)

WAC 246-810-990 Counselors fees and renewal cycle. (1) Under chapter 246-12 WAC, (~~(Part 27)~~) a counselor must renew (~~(his or her)~~) their credential every year on the practitioner's birthday.

(2) Examination and reexamination fees are the responsibility of the applicant and are paid directly to the testing company.

(3) The following nonrefundable fees will be charged:

Title	Fee
Registered hypnotherapist:	
Application and registration	\$155.00
Renewal	\$80.00
Late renewal penalty	\$75.00
Expired registration reissuance	\$75.00
Duplicate registration	\$10.00
Verification of registration	\$25.00
Certified counselor:	

Title	Fee
Application and certification	(\$255.00) <u>\$345.00</u>
Examination or reexamination	\$85.00
Renewal	(\$225.00) <u>\$305.00</u>
Late renewal penalty	(\$115.00) <u>\$155.00</u>
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
Certified adviser:	
Application and certification	(\$210.00) <u>\$285.00</u>
Examination or reexamination	\$85.00
Renewal	(\$185.00) <u>\$250.00</u>
Late renewal penalty	(\$95.00) <u>\$125.00</u>
Expired credential reissuance	\$100.00
Duplicate credential	\$10.00
Verification of credential	\$25.00
Registered agency affiliated counselor:	
Application and registration	\$90.00
Renewal	\$75.00
Late renewal penalty	\$50.00
Expired registration reissuance	\$50.00
Duplicate registration	\$10.00
Verification of registration	\$25.00

[Statutory Authority: RCW 43.70.250 and 43.70.280. WSR 18-01-098, § 246-810-990, filed 12/18/17, effective 4/1/18. Statutory Authority: RCW 43.70.250, 18.19.050, 43.70.110 and 2013 c 4. WSR 14-07-095, § 246-810-990, filed 3/18/14, effective 7/1/14. Statutory Authority: RCW 43.70.110, 43.70.250, and 2011 1st sp.s. c 50. WSR 11-20-092, § 246-810-990, filed 10/4/11, effective 12/1/11. Statutory Authority: RCW 18.19.050 and chapter 18.19 RCW. WSR 09-15-041, § 246-810-990, filed 7/8/09, effective 7/8/09. Statutory Authority: RCW 43.70.110, 43.70.250 and 2008 c 329. WSR 08-16-008, § 246-810-990, filed 7/24/08, effective 7/25/08. Statutory Authority: RCW 18.19.050. WSR 06-08-106, § 246-810-990, filed 4/5/06, effective 5/6/06. Statutory Authority: RCW 43.70.250, [43.70.]280 and 43.70.110. WSR 05-12-012, § 246-810-990, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 43.70.250. WSR 99-08-101, § 246-810-990, filed 4/6/99, effective 7/1/99. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-810-990, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.19.050(1). WSR 97-17-113, § 246-810-990, filed 8/20/97, effective 9/20/97. Statutory Authority: Chapter 18.19 RCW. WSR 96-08-069, § 246-810-990, filed 4/3/96, effective 5/4/96. Statutory Authority: RCW 43.70.250. WSR 93-14-011, § 246-810-990, filed 6/24/93, effective 7/25/93. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-810-990, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 43.70.250. WSR 90-18-039 (Order 084), §

308-190-010, filed 8/29/90, effective 9/29/90; WSR 90-04-094 (Order 029), § 308-190-010, filed 2/7/90, effective 3/10/90. Statutory Authority: RCW 43.24.086. WSR 87-18-033 (Order PM 669), § 308-190-010, filed 8/27/87.]

OTS-2850.3

AMENDATORY SECTION (Amending WSR 17-24-014 and 17-22-088, filed 11/27/17 and 10/27/17, effective 3/1/18)

WAC 246-843-990 Nursing home administrator fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC(~~(Part 2)~~).

(2) (~~The following nonrefundable fees will be charged:~~) Between the effective date of this rule and October 31, 2022, the following fees will apply:

Title of Fee	Fee
Application-Original license	(\$575.00) <u>\$690.00</u>
Administrator-in-training	285.00
Application-Endorsement	715.00
License renewal	
Renewal	(695.00) <u>835.00</u>
Late renewal penalty	300.00
Expired license reissuance	285.00
Inactive license	
Inactive license renewal	315.00
Late renewal penalty	160.00
Expired inactive license reissuance	190.00
Temporary permit	325.00
Duplicate license	10.00
Verification of license	25.00

(3) On and after November 1, 2022, the following fees apply:

Title of Fee	Fee
<u>Application-Original license</u>	<u>\$805.00</u>
<u>Administrator-in-training</u>	<u>285.00</u>
<u>Application-Endorsement</u>	<u>805.00</u>
<u>License renewal</u>	
<u>Renewal</u>	<u>975.00</u>
<u>Late renewal penalty</u>	<u>300.00</u>
<u>Expired license reissuance</u>	<u>285.00</u>
<u>Inactive license</u>	
<u>Inactive license renewal</u>	<u>315.00</u>
<u>Late renewal penalty</u>	<u>160.00</u>
<u>Expired inactive license reissuance</u>	<u>190.00</u>
<u>Temporary permit</u>	<u>325.00</u>

<u>Title of Fee</u>	<u>Fee</u>
<u>Duplicate license</u>	<u>10.00</u>
<u>Verification of license</u>	<u>25.00</u>

[Statutory Authority: RCW 43.70.250 and 43.70.280. WSR 17-24-014 and 17-22-088, § 246-843-990, filed 11/27/17 and 10/27/17, effective 3/1/18. Statutory Authority: RCW 43.70.110, 43.70.250, and 2011 1st sp.s. c 50. WSR 11-20-092, § 246-843-990, filed 10/4/11, effective 12/1/11. Statutory Authority: RCW 43.70.110, 43.70.250, 2008 c 329. WSR 08-15-014, § 246-843-990, filed 7/7/08, effective 7/7/08. Statutory Authority: RCW 43.70.250, [43.70.]280 and 43.70.110. WSR 05-12-012, § 246-843-990, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 43.70.250, [43.70.]280 and chapter 18.52 RCW. WSR 99-24-098, § 246-843-990, filed 11/30/99, effective 12/31/99. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-843-990, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.70.250 and chapter 18.52 RCW. WSR 94-09-006, § 246-843-990, filed 4/11/94, effective 5/12/94. Statutory Authority: RCW 43.70.250. WSR 93-14-011, § 246-843-990, filed 6/24/93, effective 7/25/93; WSR 91-09-051 (Order 154), § 246-843-990, filed 4/16/91, effective 5/17/91. Statutory Authority: RCW 43.70.040. WSR 91-06-058 (Order 138), recodified as § 246-843-990, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 43.70.250. WSR 90-04-094 (Order 029), § 308-54-315, filed 2/7/90, effective 3/10/90. Statutory Authority: RCW 43.24.086. WSR 87-18-031 (Order PM 667), § 308-54-315, filed 8/27/87. Statutory Authority: 1983 c 168 § 12. WSR 83-17-031 (Order PL 442), § 308-54-315, filed 8/10/83. Formerly WAC 308-54-310.]

OTS-2851.2

AMENDATORY SECTION (Amending WSR 17-24-014 and 17-22-088, filed 11/27/17 and 10/27/17, effective 3/1/18)

WAC 246-849-990 Ocularist fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC(~~(, Part 2)~~).

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Original application and examination	(\$200.00) <u>\$370.00</u>
License renewal	
Renewal	(300.00) <u>555.00</u>
Late renewal penalty	(150.00) <u>185.00</u>
Apprentice registration	(25.00) <u>100.00</u>
Apprentice renewal	(25.00) <u>100.00</u>
Expired license reissuance	115.00
Temporary practice permit	25.00

Title of Fee	Fee
Retired active license	50.00
Duplicate license	10.00
Verification of license	25.00

[Statutory Authority: RCW 43.70.250 and 43.70.280. WSR 17-24-014 and 17-22-088, § 246-849-990, filed 11/27/17 and 10/27/17, effective 3/1/18. Statutory Authority: RCW 43.70.250, [43.70.]280 and 43.70.110. WSR 05-12-012, § 246-849-990, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 43.70.250. WSR 99-08-101, § 246-849-990, filed 4/6/99, effective 7/1/99. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-849-990, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.70.250. WSR 93-14-011, § 246-849-990, filed 6/24/93, effective 7/25/93; WSR 92-02-018 (Order 224), § 246-849-990, filed 12/23/91, effective 1/23/92. Statutory Authority: RCW 43.70.040. WSR 91-02-049 (Order 121), recodified as § 246-849-990, filed 12/27/90, effective 1/31/91. Statutory Authority: RCW 43.24.086. WSR 87-18-031 (Order PM 667), § 308-55-025, filed 8/27/87. Statutory Authority: 1983 c 168 § 12. WSR 83-17-031 (Order PL 442), § 308-55-025, filed 8/10/83. Formerly WAC 308-55-010.]