



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 05, 2018

TIME: 9:37 AM

WSR 18-24-121

Agency: Department of Health- Chiropractic Quality Assurance Commission

Original Notice

Supplemental Notice to WSR

Continuance of WSR

Preproposal Statement of Inquiry was filed as WSR 17-02-045 ; 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 246-808-020 - Accreditation and Approval of Colleges - Policy (formerly Colleges-Policies), 246-808-030 -Accreditation of Colleges - Procedure, 246-808-040 - Colleges-Educational Standards Required for Accreditation. The Chiropractic Quality Assurance Commission (commission) is proposing amending these sections to update, clarify, and modernize the language. Additionally, the commission is creating WAC 246-808-050 - Early Remediation Program - Purpose, 246-808-060 - Early Remediation Program - Definitions, and 246-808-070 -Early Remediation Program Criteria. The commission is proposing creating new sections as an alternative to certain disciplinary actions.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
01/10/2019	10:30 am	Doubletree by Hilton - Seattle Airport 18740 International Blvd Seattle, WA 98188	

Date of intended adoption: 01/10/2019 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Robert Nicoloff, Exectutive Director

Address: Chiropractic Quality Assurance Commission
PO Box 47858
Olympia, WA 98504-7858

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

Fax: 360-236-2360

Other:

By (date) 01/02/2019

Assistance for persons with disabilities:

Contact Robert Nicoloff

Phone: 360-236-4924

Fax: 360-236-2360

TTY: (360) 833-6388 or 711

Email: cqac@doh.wa.gov

Other:

By (date) 01/02/2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The commission is proposing to amend WAC 246-808-020, 246-808-030, and 246-808-040, to provide clarity and modernize the commission's accreditation and approval process. These rules were last updated in 1996. Since that time, chiropractic professional best practices have evolved relative to policies, procedures, and educational standards required for accreditation of chiropractic colleges. Under the commission's regulatory jurisdiction and authority, the proposal would maintain the commission's authority to accredit chiropractic schools. It also identifies established national and international chiropractic bodies, such as the Council on Chiropractic Education (CCE) and the Council on Chiropractic Education International (CCEI), citing their

expertise in cost-effectively assessing and validating chiropractic schools and colleges that meet Washington's chiropractic educational requirements under chapter 18.25 RCW. New sections are added to establish an early remediation process to better address minor practice deficiencies not resulting in patient harm.

Reasons supporting proposal: Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state. The proposal meets the intent of the statute by clarifying, streamlining, and modernizing the rules, and to make the rules consistent with current laws and practice standards for accreditation and approval of college programs while further protecting the public. Implementation of an early remediation process would allow the commission to better address a wider range of disciplinary issues to further patient safety.

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:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Chiropractic Quality Assurance Commission Private Public Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting: Manager	Leann Yount, Program	111 Israel Rd SE Tumwater, WA 98501	360.236.2822
Implementation: Manager	Leann Yount, Program	111 Israel Rd SE Tumwater, WA 98501	360.236.2822
Enforcement: Manager	Tammy Kelley, Disciplinary	111 Israel Rd SE Tumwater, WA 98501	360.236.2326

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: Robert Nicoloff, Executive Director
 - Address: Chiropractic Commission
PO Box 47858
Olympia, WA 98504-7858

Phone: 360.236.4924

Fax: 360.236.2360

TTY: (360) 833-6388 or 711

Email: cqac@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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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:

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. ____
Minor cost threshold = one percent of annual payroll of colleges, universities, and professional schools = \$64,917.
NAICS code 611310 lists annual payroll covering 91 establishments at \$590,748,000.
(\$590,748,000 / 91) * 0.01 = \$64,917.

Annualized Accreditation Cost (see table below for details):
First four years: \$5,313 per year (\$313 + \$625 + \$2625 + \$1750).
Fifth year and thereafter: \$4,438 per year (\$313 + \$625 + \$2625 + 875).

Amount	Description	Requirements	Notes
\$ 2,500	Initial application fee	\$2,500 One-time	For initial accreditation only \$2,500/8 = \$313 per year first eight years
\$ 5,000	Initial self-study report	\$5,000 One-time	For initial accreditation only \$5,000/8 = \$625 per year first eight years
\$21,000	Focused comprehensive site visit	Initial & every 8 years	\$21,000/8 = \$2,625 per year
\$ 7,000	Interim site visit	\$7,000 once every 4 years after each comprehensive site visit	\$7,000/4 = \$1750 per year for the first 4 years. \$7,000/8 = \$875 annual cost for year five and after.
Unavailable	College resources to prep CCE application (time x salary, printing, copying, postage...)	One-time	Neither CCE nor the colleges contacted were willing to provide this information. <i>They expressed that it is proprietary/confidential.</i>

Unavailable	College resources to accompany/be available to CCE personnel for site visits	Every 4 years	Costs may differ based on comprehensive vs interim site visit (length of time & number of personnel required). <i>Same as above.</i>
-------------	--	---------------	--

Source: *The Council on Chiropractic Education (CCE)*. <http://www.cce-usa.org/publications.html> and http://www.cce-usa.org/uploads/1/0/6/5/106500339/2018-01_cce_manual_of_policies.pdf

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:

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

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: 12/04/2018

Name: Robert Nicoloff

Title: Executive Director

Signature:



AMENDATORY SECTION (Amending WSR 96-16-074, filed 8/6/96, effective 9/6/96)

WAC 246-808-020 Accreditation and approval of chiropractic colleges—Policy. (1) In determining a chiropractic college's eligibility for accreditation and approval in the state of Washington, the commission may utilize ~~(, at its discretion,)~~ recognized national or international chiropractic accrediting ~~((associations, recognized regional accrediting associations, and appropriate professional firms, agencies and individuals))~~ bodies that meet the criteria in WAC 246-808-040 (3)(d), (e), and (f), unless the chiropractic college applies directly to the commission for accreditation and approval under RCW 18.25.025, and meets all criteria of WAC 246-808-040.

(2) ~~((Accreditation shall be))~~ The commission shall accredit and approve chiropractic colleges primarily contingent upon a course of study ~~((which))~~ that incorporates educationally sound practices and complies with the chiropractic educational requirements for the state of Washington as defined in WAC 246-808-040.

~~((3) A college must have successfully graduated a class prior to making application for accreditation.))~~

AMENDATORY SECTION (Amending WSR 96-16-074, filed 8/6/96, effective 9/6/96)

WAC 246-808-030 Accreditation of chiropractic colleges—Procedure. In determining a chiropractic college's eligibility for accreditation and approval in the state of Washington, the chiropractic college must be accredited by a commission-recognized national or international accrediting body whose standards meet the criteria of WAC 246-808-040 (3)(d), (e), and (f), or receive accreditation and approval from the commission in accordance with RCW 18.25.025 and WAC 246-808-040.

(1) Application and determination. ~~((A chiropractic college which desires to be accredited by the commission may secure an application form by sending a written request to the commission. The applicant shall complete the application form and submit it to the commission, along with any accompanying documents. Recent photographs of the college or the buildings in which the college is located shall be submitted with the application.))~~

(a) To apply for accreditation and approval by the commission, a chiropractic college shall send a written request to the commission requesting an application form. The applicant shall complete the application form and submit it to the commission, along with any accompanying documents, and recent photographs of the chiropractic college or the buildings in which the chiropractic college is located.

(b) Within one hundred twenty days after the receipt of the completed application, the commission shall consider the application, determine whether or not the chiropractic college fulfills the requirements ((for accreditation)) in WAC 246-808-040, and notify the applicant ((, by mail,)) of the commission's determination. If the commission determines that the chiropractic college ((is not)) cannot be accredited and approved ((for accreditation)), the notice shall ((set

forth)) include the reasons for denial. The commission may withhold making a determination for a reasonable period of time for any justifiable cause upon giving notice to the applicant.

(2) ~~((Interrogatories.—If))~~ Additional information. The commission ~~((desires,—it))~~ may request additional information from the applicant ~~((to))~~ including answers to specific inquiries. The ~~((granting or the denial of accreditation may be))~~ commission may grant or deny the accreditation and approval contingent upon the applicants' response to such inquiries.

(3) ~~((Oath. The answers to the inquiries in the application, and any other inquiries, shall be sworn to before a notary public.~~

~~(4))~~ Inspection. ~~((If))~~ The commission ~~((desires,—it)),~~ at its discretion, may make ~~((the))~~ a physical inspection of ~~((a particular))~~ the applicant's chiropractic college a condition for ~~((its being accredited. Reasonable costs for necessary on-campus visitation shall be paid by the applicant.~~

~~(5))~~ accreditation and approval.

(4) Duration. ~~((A college which is once accredited))~~ An accredited and approved chiropractic college shall continue to be accredited and approved for ~~((so))~~ as long as it fulfills the requirements ~~((set forth by the commission, or to be set forth by the commission. Upon receiving convincing evidence that a college has ceased to fulfill the requirements, the commission shall withdraw the accreditation of the college and shall inform the college of its reasons for doing so))~~ of this chapter.

(a) A chiropractic college shall ~~((inform))~~ report to the commission ~~((of))~~ any changes ~~((,—if any, in status which could reasonably jeopardize the))~~ to its accreditation status, financial solvency, ownership status, administration, or curriculum.

(b) A chiropractic college shall also report any changes to its faculty, facilities, or equipment that may affect the chiropractic college's qualifications for ~~((accreditation. Such changes shall include, but are not limited to, changes in curriculum, administration, faculty, classrooms and equipment.~~

(6) Revocation of accreditation. When the commission receives evidence that an accredited institution is not complying with commission criteria, it may, after meeting with institutional representatives, place the institution on probation. The institution shall be ~~((supplied))~~ commission accreditation and approval.

(5) Enforcement. The commission may place an accredited and approved chiropractic college on probation when the commission receives evidence that the chiropractic college is not meeting criteria for continued commission accreditation and approval. The commission will provide the chiropractic college with a written statement of ~~((charges setting forth))~~ deficiencies describing the specific ~~((s))~~ areas of ~~((the))~~ noncompliance. The commission and ~~((chief administrative officer of the institution))~~ the chiropractic college may agree on a mutually acceptable timetable and procedures for correction of the deficiencies or the commission may set the timetable. Should the ~~((institution))~~ chiropractic college not make the required corrections ~~((recommended)),~~ or should further deficiencies develop during the probation, the commission may ~~((,—after meeting with institutional representatives,—))~~ revoke the ~~((accreditation))~~ approval of the chiropractic college. The commission need not place a chiropractic college on probation before pursuing suspension or revocation of the approval.

~~((7))~~ Reinstatement of accredited status. Once the commission has revoked the accredited status of an institution, it must reapply by

submitting either a new self-study or an updated self-study as may be required by the commission. The commission's usual procedure for applicants for initial accreditation and petitions for renewal is applied to petitioners for reinstatement. The visitation team report, hearing evidence and supporting data must show not only correction of the deficiencies which led to the disaccreditation but, in addition, compliance with the commission's criteria.

~~(8) Appeal. An appeal of a decision adverse to the college)~~ (6) Appeal. A chiropractic college whose approval is suspended or revoked may request an adjudicative proceeding under chapter 246-11 WAC to contest the decision. A request for an adjudicative proceeding must be filed with the commission within thirty calendar days of ((receipt)) service of the commission's ((written)) notice of decision. ((To be valid the appeal must contain a certified copy of a formal action authorizing the appeal, taken by a lawfully constituted meeting of the governing body of the institution. The appeal is based on a review of self-evaluation documents, catalog, visitor's report, institution's response to visitor's report, predecision hearing of the commission and commission decision. Alleged improvements effective subsequent to the evaluation which can be verified only through another on-site visit provide the basis for another evaluation, not for an appeal. An appeal does not include a dispute on a finding of fact unless appellant presents a valid reason showing the finding is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record before the commission. The commission shall meet to consider the appeal at its earliest opportunity, and send a formal reply to the appealing college within thirty days of such meeting, unless it extends the time for good cause shown.))

AMENDATORY SECTION (Amending WSR 96-16-074, filed 8/6/96, effective 9/6/96)

WAC 246-808-040 Chiropractic colleges—Educational standards required for accreditation and approval. (1) ~~((Objectives — The college))~~ A chiropractic college seeking to obtain or maintain commission accreditation and approval shall have clearly defined education objectives.

(2) Administration and organization~~((—))~~. The chiropractic college shall:

(a) Be incorporated as a nonprofit institution and recognized as such by its state of domicile~~((—))~~;

(b) Have a full-time administrator~~((—))~~;

(c) Have either a president or a dean of education with a doctor of chiropractic degree~~((—))~~; and

(d) Adopt ~~((policy of))~~ policies on nondiscrimination as to national origin, race, religion, or ~~((sex))~~ sexual orientation.

(3) The chiropractic college shall provide educational offerings ~~((The college shall))~~ that:

(a) ~~((Provide educational offerings which prepare))~~ Prepare the student for successfully completing the licensing examination and engaging in practice~~((—))~~;

(b) ~~((Offer))~~ Have an educational program with a minimum of four thousand ~~((in-class))~~ classroom hours provided over a four year academic term~~((--))~~;

(c) Have available syllabi for all courses~~((--))~~;

(d) Offer a chiropractic curriculum as follows:

(i) Principles of chiropractic - Two hundred ~~((in-class))~~ classroom hours;

(ii) Adjustive technique - Four hundred ~~((in-class))~~ classroom hours;

(iii) Spinal roentgenology - One hundred seventy-five ~~((in-class))~~ classroom hours;

(iv) Symptomatology and diagnosis - Four hundred twenty-five ~~((in-class))~~ classroom hours; and

(v) Clinic - Six hundred twenty-five ~~((in-class))~~ classroom hours.

~~((Offer at least one hundred twenty hours for the study of "principles of chiropractic" as the study of chiropractic philosophy, which shall be defined as the commonly held tenets which provide the basis for chiropractic as a separate and distinct form of practice.~~

~~The required one hundred twenty hours of philosophy instruction shall be clearly identified in the application and subsequent college catalogue as philosophy of chiropractic by course title and description. The remaining eighty required hours may include history of chiropractic, ethics, interprofessional relationships and other subjects specifically relating to the principles and practice of chiropractic.~~

~~((f--))~~ The computation of hours required in subsection (3)(d) of this section do not include mechanotherapy, physiotherapy, acupuncture, acupressure, ~~((or dietary therapy))~~ or any other therapy ~~((in computation of the qualifying four thousand classroom hours.~~

~~((g--))~~ ; and

(f) Maintain a clinical program sufficient to fulfill the objectives of the chiropractic college.

(4) Faculty - The chiropractic college shall provide sufficient faculty to support the educational program of the chiropractic college.

(5) Students - The chiropractic college shall:

(a) Select students on a nondiscriminatory basis~~((--))~~;

(b) Require that students maintain a 2.00 grade point average and have no chiropractic subject grade less than ~~((2.0--))~~ 2.00; and

(c) Require the student to complete a four-year academic program ~~((which))~~ that meets all requirements of ~~((statute and rule))~~ chapter 18.25 RCW and this chapter for licensing to practice chiropractic in Washington state.

(6) Physical facilities and equipment - The chiropractic college shall:

(a) Maintain a library of size and quality sufficient to serve the educational program~~((--))~~;

(b) Maintain a ~~((basic))~~ physical plant that facilitates the educational program~~((--))~~; and

(c) Maintain clinic facilities that are of sufficient size and equipped appropriately to serve the number of students enrolled.

(7) Financial - The chiropractic college shall:

(a) Have adequate present and anticipated income to sustain a sound educational program~~((--))~~;

(b) Have well formulated plans for financing existing and projected education programs~~((--))~~;

(c) Have an annual audit of financial records by a ((CPA.)) certified public accountant; and

(d) Make records available for review by the commission upon request.

(8) Self-evaluation - The chiropractic college shall have a program of continuing self-evaluation and such evaluation must be made available upon request by the commission.

(9) A chiropractic college must have successfully graduated a class prior to making application for commission accreditation and approval.

NEW SECTION

WAC 246-808-050 Early remediation program—Purpose. The purpose of the early remediation program is to address minor practice deficiencies that have not resulted in patient harm. The early remediation program may include education, training, and monitoring to improve the quality of care and reduce the risk of patient harm.

WAC 246-808-060 and 246-808-070 establish the early remediation program and its eligibility criteria and procedures.

The commission intends to use the early remediation program only in cases in which there is no evidence of patient harm as a direct result of the licensee's practice-related deficiencies. The commission may resolve allegations of practice deficiencies through early remediation during an investigation.

NEW SECTION

WAC 246-808-060 Early remediation program—Definitions. The definitions in this section apply to WAC 246-808-050 through 246-808-070, unless the context clearly requires otherwise.

(1) "Complaint" means a documented report of a possible violation of the Uniform Disciplinary Act, for which the commission shall assess and may subsequently authorize an investigation.

(2) "Licensee" means a chiropractor or chiropractic X-ray technician who holds an active license under chapter 18.25 RCW.

(3) "Remediation plan" means a documented agreement between the licensee named in the complaint(s) and the commission listing remedial steps to be taken by the licensee to resolve the identified practice deficiencies. Remediation plans may include education, training, and monitoring of the licensee.

NEW SECTION

WAC 246-808-070 Early remediation program—Criteria. (1) The commission shall use the following criteria to determine eligibility for early remediation:

(a) Practice limitations are not needed to ensure patient protection;

(b) The identified practice deficiencies may be corrected by education, training, monitoring, or any combination of these;

(c) The respondent is willing and able to participate in the early remediation program; and

(d) The practice deficiency did not result in patient harm.

(2) The commission may offer a remediation plan to resolve a complaint in cases of the following practice deficiencies:

(a) Documentation of care;

(b) Radiographic standards;

(c) Billing and coding;

(d) Advertising or marketing;

(e) Continuing education; or

(f) Other minor practice concerns as determined by the commission.

(3) The commission may offer a remediation plan to resolve eligible complaints. Nothing in this section requires the commission to offer a remediation plan. A licensee who accepts a remediation plan waives any right to a hearing to modify a remediation plan or challenge the commission's decision regarding successful completion of a remediation plan.

(4) The commission shall use the following process to implement the early remediation program:

(a) After a preliminary investigation identifies the practice deficiencies, the commission shall apply criteria in subsections (1) and (2) of this section to determine eligibility for the early remediation program;

(b) If all of the criteria are met, and if the commission determines the licensee is eligible for participation in the early remediation program, the commission shall propose a remediation plan to the licensee;

(c) The commission shall evaluate whether the practice deficiencies have been corrected and are unlikely to recur;

(d) The commission may decide to conduct a full investigation and consider disciplinary action if additional facts become known or circumstances change such that the licensee is no longer eligible based on the criteria in subsections (1) and (2) of this section; and

(e) If the licensee complies with the agreed remediation plan, the commission may consider the licensee's completion of the remediation plan as grounds to close the matter without further action.