

Significant Legislative Rule Analysis

WAC 246-840-835, 246-840-930,
246-840-935 and 246-840-940.

A rule relating to the Board of
Nursing's blood glucose
delegation rules.



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SECTION 1

A brief description of the proposed rule including the current situation/rule, followed by the history of the issue and why the proposed rule is needed.

The Washington State Board of Nursing (board) is proposing new sections of rule, WAC 246-840-835 and 246-840-935, and amendments to WAC 246-840-930 and 246-840-940 to implement Substitute House Bill (SHB) 1124 (chapter 14, Laws of 2022) Glucose Monitoring And Testing—Nurse Delegation, which was codified in RCW 18.79.260. SHB 1124 allows a Registered Nurse (RN) to delegate these tasks to nursing assistant-registered (NA-R) or certified nursing assistant-certified (NA-C) or home care aides (HCA) and specifies the settings, training, supervision, and liability of the delegation process.

Current Situation/Rules (WAC 246-840-930 and 246-840-940):

Existing Washington Administrative Code (WAC) 246-840-930 outlines the criteria for delegation by RNs, focusing on assessment, planning, implementation, and evaluation in community-based and in-home care settings. WAC 246-840-940 addresses related aspects of RNs delegation. Under current rules, RNs in Washington State have limitations on the delegation of blood glucose monitoring and testing tasks. Supervision intervals, particularly for insulin injection authority, are regulated on a weekly basis. The existing rules reflect a more rigid framework that may not fully align with the evolving healthcare landscape and emerging demands for adaptable delegation practices.

History of the Issue:

The issue at hand has historical roots in the regulatory framework governing nursing delegation in Washington State. As healthcare delivery models and patient needs have evolved, there has been a growing recognition of the need for more flexible and patient-centered delegation practices. SHB 1124 marked a legislative response to address these concerns. The bill sought to empower RNs with greater authority to delegate blood glucose monitoring, testing, and management tasks, recognizing the potential for improved efficiency and patient care outcomes.

Proposed Rule Changes by the board: The board is responding to SHB 1124 by proposing new sections of rule WAC 246-840-835 and 246-840-935. Additionally, amendments are proposed for existing rules WAC 246-840-930 and 246-840-940. These changes aim to implement the provisions of SHB 1124, accommodating the expanded scope of delegation for glucose monitoring and testing tasks, and decreased supervision intervals for insulin injection authority. The proposed rules will outline specific criteria, procedures, and requirements to ensure compliance with the legislative mandate.

Why the Proposed Rule is Needed: The proposed rule changes are a direct response to the legislative mandate of SHB 1124, reflecting the collaborative efforts of policymakers, healthcare

professionals, and interested parties to modernize nursing delegation practices. The need for these changes arises from the evolving healthcare landscape, where care delivery extends beyond traditional settings. The proposed rules aim to grant RNs the flexibility to delegate tasks in a manner that is more responsive to patient needs, promoting efficiency while maintaining a commitment to patient safety and care quality. The adjustments in supervision intervals, especially the shift from weekly to biweekly for the first four weeks, represent a pragmatic response to strike a balance between oversight and adaptability in various healthcare environments. Overall, the proposed rule is needed to align nursing delegation practices with contemporary healthcare demands, fostering a more patient-centered and efficient approach to care delivery.

SECTION 2

Significant Analysis Requirement

As defined in RCW 34.05.328, the amendments to existing rules, WAC 246-840-930 and 246-840-940, require a significant analysis because they establish substantive provisions pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction. The analysis can be found in Section 5.

The following SA Table 1. identifies rule sections or portions of rule sections that have been determined exempt from significant analysis based on the exemptions provided in RCW 34.05.328(5) (b) and (c).

SA Table 1. Summary of Sections not requiring Significant Analysis

WAC Section and Title	Description of Proposed Changes	Rationale for Exemption Determination
<p>WAC 246-840-835 Nurse delegation – Blood glucose monitoring and testing in settings other than community-based and in-home.</p>	<p>The proposed new section incorporates the requirement established in RCW 18.79.260 and clarifies in the chapter of rule that in settings other than community-based and in-home that deliver health care services, RNs may delegate blood glucose monitoring and testing only to registered or certified nursing assistants under chapter 18.88A RCW in accordance with the delegation process in RCW 18.79.260 (3)(a).</p>	<p>The proposed rule is exempt under RCW 34.05.328(5)(b)(iii) because it adopts without material change federal Washington state statutes.</p> <p>The proposed rule may also be exempt under RCW 34.05.328(5)(b)(iv) because it provides clarification within the rule without changing the effect of the law.</p>
<p>WAC 246-840-935 Nurse delegation – Blood glucose monitoring and testing in community-based and in-home settings.</p>	<p>The proposed new section incorporates the requirements established in RCW 18.79.260 and clarifies in the chapter of rule that in community-based and in-home care settings, the RN delegator may delegate blood glucose monitoring</p>	<p>The proposed rule is exempt under RCW 34.05.328(5)(b)(iii) because it adopts without material change federal Washington state statutes.</p>

	and testing only to registered or certified nursing assistants under chapter 18.88A RCW or to HCA certified under chapter 18.88B RCW following the criteria for the setting defined in RCW 18.79.260.	The proposed rule may also be exempt under RCW 34.05.328(5)(b)(iv) because it provides clarification within the rule without changing the effect of the law.
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SECTION 3

Goals and objectives of the statute that the rule implements.

SHB 1124, codified under RCW 18.79.260, expands the allowance of the RN to delegate glucose monitoring and testing beyond community-based and in-home care settings to all settings where NA-R, NA-C credentialed under chapter 18.88A RCW, or HCA certified under chapter 18.88B RCW, work. Additionally, the changes made by SHB 1124 now require the supervision and evaluation time frame to be defined in rule.

RCW 18.79.010 provides the overarching goal that the board must regulate the competency and quality of professional healthcare providers under the board's jurisdiction by establishing, monitoring, and enforcing qualifications for licensure, nursing practice, continuing competency, and discipline.

SECTION 4

Explanation of why the rule is needed to achieve the goals and objectives of the statute, including alternatives to rulemaking and consequences of not adopting the proposed rule.

Alternatives to Rulemaking:

1. **No Rule Changes:** One alternative would be to rely solely on the statutory language of SHB 1124 without introducing corresponding rule changes. However, this approach would leave a regulatory gap, hindering RNs, NA-Rs, NA-Cs, and HCAs from having clear and specific guidance on the practical implementation of the expanded delegation scope. It might lead to inconsistency in practice, potential misinterpretation of legislative intent, and increased challenges in ensuring patient safety and compliance.
2. **Informal Guidance:** Another alternative could involve providing informal guidance through advisories or communications. While this may offer some assistance, it lacks the binding nature of formal rules. Informal guidance may not be sufficient to address all nuances and specificity required for the diverse healthcare settings covered by the legislative changes.

Consequences of Not Adopting the Proposed Rule:

1. **Limited Delegation Flexibility:** Without the proposed rules, RNs would be constrained by existing regulations, limiting their ability to adapt delegation practices to the diverse healthcare settings. This lack of flexibility may hinder the efficient delivery of care, especially in non-traditional care environments.
2. **Confusion and Inconsistency:** Without the proposed rule changes, there is a risk of confusion among healthcare professionals regarding the parameters of delegated tasks. Inconsistencies in interpretation could arise, potentially leading to variations in practice across different healthcare settings.
3. **Compromised Patient Safety:** The absence of clear rules may compromise patient safety. The detailed guidance provided in the proposed rules is essential for assessing competency, ensuring appropriate training, and defining supervision intervals, all of which contribute to the safe delegation of tasks.
4. **Legal Compliance Challenges:** RNs, NA-Rs, NA-Cs, and HCAs may face challenges in complying with legal requirements without a comprehensive rule framework. This could expose healthcare professionals and institutions to legal uncertainties and potential compliance issues.
5. **Potential Non-Compliance with Statute:** Not adopting the proposed rules could result in non-compliance with the statutory requirements outlined in SHB 1124. This may lead to

a gap between legislative intent and actual practice, creating ambiguity and potential legal challenges for healthcare professionals.

In summary, the proposed rule changes are crucial for translating the legislative goals of SHB 1124 into actionable and enforceable regulations. The absence of these rules could impede progress toward modernized and patient-centered nursing delegation practices, with potential consequences for both healthcare professionals and the quality of care delivered.

SECTION 5

Analysis of the probable costs and benefits (both qualitative and quantitative) of the proposed rule being implemented, including the determination that the probable benefits are greater than the probable costs.

WAC 246-840-930: Criteria for Delegation

WAC 246-840-940: Washington state board of nursing community-based and in-home care setting delegation decision tree.

Description: Amendments to WAC 246-840-930 regarding delegation of insulin injections change the required RN supervision time from weekly to every two weeks for the first four weeks while still allowing supervision to be more frequent as needed. The amendments regarding the supervision frequency for insulin injections are found in the "PLAN" section of the rule, specifically in subsection (12)(m) and subsection (19).

Amendments to WAC 246-840-940 (14) regarding delegation of insulin injections, change the required RN supervision time from weekly to every two weeks for the first four weeks.

Costs: For both WAC 246-840-930 and 246-840-940, the board and Department of Health estimates there is no additional cost associated with the proposed amendments regarding supervision frequencies for delegation of insulin injections. The proposed amendments change the required RN supervision time from weekly to every two weeks for the first four weeks.

Benefits: For both WAC 246-840-930 and 246-840-940, the revised supervision intervals offer increased flexibility for RNs while maintaining essential oversight of delegated tasks, contributing to improved efficiency in care delivery. Additionally, the clearer guidance provided by the amended rule enhances patient safety and ensures consistent delegation practices across healthcare settings, ultimately leading to better patient outcomes.

Determination

Probable Benefits greater than Probable Costs

It was determined that the probable benefits of clear and concise rules around delegation of insulin injections as directed by SHB 1124 and described in the proposed rule are greater than the probable costs of initial trainings in new settings and compliance efforts.

SECTION 6

List of alternative versions of the rule that were considered including the reason why the proposed rule is the least burdensome alternative for those that are required to comply and that will achieve the goals and objectives of the proposed rule.

After initial consideration of an extensive overhaul to the delegation section of chapter 246-840 WAC, which was presented to interested parties, the board opted to refine the scope of the rulemaking process to focus specifically on implementing SHB 1124, as outlined in the CR-101 Preproposal. This decision was made to streamline the rulemaking process and ensure alignment with the legislative mandate. Additionally, the board explored the option of integrating the proposed language from the new WACs into existing sections. However, it was determined that this approach would likely cause confusion due to the specificity of settings addressed within the rule sections. The proposed rule changes and additions were identified as the least burdensome approach to fulfilling the intent of SHB 1124, allowing for clear and effective implementation of the legislative requirements.

SECTION 7

Determination 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 action that violates the requirements of federal or state law.

SECTION 8

Determination 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

Determination 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

Demonstration 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.