



**PROPOSED RULE MAKING
(RCW 34.05.320)**

**CR-102 (7/22/01)
Do NOT use for expedited
rule making**

Agency: Department of Labor and Industries	<input checked="" type="checkbox"/> Original Notice <input type="checkbox"/> Supplemental Notice to WSR _____ <input type="checkbox"/> Continuance of WSR _____
<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR <u>03-16-083</u> ; or <input type="checkbox"/> Expedited Rule Making -- Proposed notice was filed as WSR _____; or <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	

(a) Title of rule: (Describe Subject)

- Amended Section WAC 296-19A-210(2) What are the qualifications to provide vocational rehabilitation services to industrially injured or ill workers? VRC supervisor of interns (supervisor);
- Amended Section WAC 296-19A-480 When must providers comply with these rules?

Purpose: These amendments will clarify the expectations and qualification requirements for vocational rehabilitation counselors who apply to the department to supervise vocational rehabilitation interns. In addition, the qualifications requirements were modified to reflect a broader range of experience, which will result in being able to more fairly count the experience of applicants, regardless of whether the experience was gained in the private or public sector. In addition, the qualifications requirements were modified to reflect a broader range of experience, which will result in being able to more fairly count the experience of applicants, regardless of whether the experience was gained in the private or public sector.

Other identifying information: N/A

(b) Statutory authority for adoption: RCW 51.32.095, RCW 51.04.030, RCW 51.36.085, RCW 51.36.100, RCW 51.36.110	Statute being implemented: N/A
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(c) Summary: The proposed language would broaden the types of experience that would qualify a counselor for supervisor status. The number of years of experience would remain at five, but the proposed rule would change the requirement that a minimum of three be under Title 51 RCW. The change would also clarify the expectations for supervision of interns in five particular areas (monitoring billing, monitoring work, instructing and monitoring compliance with professional standards, assisting with professional development, and communicating statute, rule and policy).

Reasons supporting proposal: The proposed changes improve this regulation in two ways. First, it allows a broader array of experience to count for vocational counselors applying for supervisory status. This would include evaluative work performed by vocational counselors working in the public sector and vocational counselors who have worked in other states. This is a fairer approach to evaluating vocational counselor experience. It also improves the existing rule by more explicitly defining the expectations of supervisors in providing education and training to interns. This is intended to raise the quality of vocational intern supervision.

(d) Name of Agency Personnel Responsible for:	Office Location	Telephone
1. Drafting..... Blake Maresh, Manager, Program Analysis and development	7273 Linderson Way Tumwater, WA 98501	360/902-6564
2. Implementation..... Roy Plaeger-Brockway, Program Manager, Health Svcs. Analysis	7273 Linderson Way Tumwater, WA 98501	360/902-6699
3. Enforcement..... Rich Wilson, Supervisor, Private Sector Rehabilitation Services	7273 Linderson Way Tumwater, WA 98501	360/902-5447

(e) Name of proponent (person or organization): Department of Labor and Industries Private

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:
N/A

(g) Is rule necessary because of:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	If yes, ATTACH COPY OF TEXT Citation:
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	

(h) HEARING LOCATION: Department of Labor and Industries Tumwater Headquarters Auditorium 7273 Linderson Way Tumwater, WA 98501 Date: <u>2/2/04</u> Time: <u>10:00</u>	Department of Labor and Industries Spokane Service Location 901 N Monroe Street, Suite 100 Spokane, WA 99201-2149 Date: <u>2/3/04</u> Time: <u>10:00</u>
Submit written comments to: Blake Maresh, Manager, Program Analysis and Development Department of Labor and Industries Health Services Analysis PO Box 44322 Olympia, WA 98504-4322 FAX (360) 902-4249 By (date) February 11, 2004	
DATE OF INTENDED ADOPTION: July 1, 2004	

Assistance for persons with disabilities: Contact <u>Linda Alguire</u> by <u>January 27, 2004</u> at: (360) 902-6799	
NAME (TYPE OR PRINT) Paul Trause	CODE REVISER USE ONLY <div style="font-size: 2em; font-weight: bold;">WSR # 04-01-164</div>
SIGNATURE	
TITLE	
DATE	
Director, Department of Labor and Industries	December 22, 2003

(j) Short explanation of rule, its purpose, and anticipated effects:

This section of rule spells out the requirements for vocational rehabilitation counselors who apply to the department to become supervisors of vocational interns. The intent of this rule is to create standards and expectations for intern supervisors so that those who are working toward becoming vocational counselors receive appropriate training and guidance.

The primary reason for this rulemaking is to revise the supervisory requirements to provide for a broader definition of qualifying experience. The current rule (adopted in May 2003 and effective February 1, 2004) requires five years of "direct" service delivery to Washington State injured workers to count as qualifying experience. This requirement may unfairly exclude the experience of those in the public sector or those from other states.

The anticipated effects of this rule are that valuable experience either from working in other states or in capacities other than face-to-face service delivery may also be recognized as qualifying experience to supervise vocational interns. This rule should also have the effect of improving the education and oversight given to interns through clarifying what the department expects of those who supervise interns.

Does proposal change existing rules? YES NO If yes, describe changes:

The proposed language would broaden the types of experience that would qualify a counselor for supervisor status. The number of years of experience would remain at five, but the proposed rule would change the requirement that a minimum of three be under Title 51 RCW. The change would also clarify the expectations for supervision of interns.

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.
A copy of the statement may be obtained by writing to:

telephoning: ()
faxing: ()

No. Explain why no statement was prepared

This rule change makes clarification changes to existing language pertaining to the requirements for vocational counselors to qualify to supervise interns. However, it does not change the underlying intent. The rule change also broadens the language explaining the types of work experience that will qualify counselors to become supervisors. The change will make the rule fairer, but does not impose any additional financial burden.

(l) Does RCW 34.05.328 apply to this rule adoption? Yes No

Please explain: The subject and scope of this rulemaking does not qualify as a significant rulemaking.

AMENDATORY SECTION (Amending WSR 03-11-009, filed 5/12/03, effective 2/1/04)

WAC 296-19A-210 What are the qualifications to provide vocational rehabilitation services to industrially injured or ill workers? Provider community commentary, expert opinion and best practices suggest that there is a correlation between a higher quality level of vocational rehabilitation services and higher qualifications of vocational rehabilitation providers. To ensure the provision of the highest possible quality of vocational rehabilitation services, the department shall only issue a provider number to persons, firms, partnerships, corporations, and other legal entities that meet the following qualification requirements:

(1) Vocational rehabilitation counselor (VRC).

(a) VRCs not registered with the department and applying for a provider number with the department effective on or after December 1, 2000, must meet the following minimum qualifications:

Education Masters Degree	Experience 1 year full-time industrial insurance experience	Certification and CRC or CDMS or ABVE
OR		
Bachelors Degree	2 years full-time industrial insurance experience	and CRC or CDMS

CRC = Certified Rehabilitation Counselor

CDMS = Certified Disability Management
Specialist

ABVE = American Board of Vocational Experts

(b) VRCs registered with the department as of November 30, 2000, will be required to meet the qualification criteria in (a) of this subsection no later than November 30, 2010.

(c) The VRC assigned to or directly receiving the referral from the referral source is responsible for all work performed by any vocational provider on that referral.

(2) VRC supervisor of interns (supervisor).

(a) ~~((In order to supervise interns providing vocational rehabilitation services to industrially injured or ill workers beginning on or after December 1, 2000, the VRC supervisor must provide proof of five years full-time experience providing direct vocational services to Washington state injured workers.))~~ The ((VRC)) supervisor must meet ~~((all of))~~ the qualification requirements for a VRC in subsection (1)(a) and (b) of this section.

(b) ~~((Supervisors registered with the department as of November 30, 2000, will be required to meet the qualification criteria in (a) of this subsection no later than November 30, 2010.))~~

~~(c) The VRC supervisor is responsible for ensuring that all work performed by an intern for the department or self-insurer conforms with Title 51 RCW, department rules and department policies.)~~ The supervisor must provide proof of a total of five years full-time experience providing, evaluating, analyzing and/or assessing vocational services. For the purposes of this rule, "vocational services" are those defined in WAC 296-19A-010(2). At least three of the five years must be under Title 51 RCW.

(c) Internship time does not count toward five years of VRC experience needed to become a supervisor.

(d) Supervisors are expected to monitor and assist in the training and professional development of interns under their supervision, in order to ensure that interns develop the requisite knowledge and professional skills to become competent VRCs. A supervisor's responsibilities, include, but are not limited to:

(i) Monitoring billing;

(ii) Monitoring work;

(iii) Professional behavior;

(iv) Professional development and assisting the intern in meeting the department's requirements to become a VRC; and

(v) Communicating statute, rule and policy.

(3) Forensic services--In order to provide forensic services to the department, on or after the effective date of this rule, a VRC must provide proof of five years full-time experience providing direct vocational services to Washington state industrially injured or ill workers, and must possess a CRC or ABVE certification. Vocational providers previously approved to provide this service, under chapter 296-19A WAC, will retain that status.

(4) Intern.

(a) Interns not registered with the department and applying for a provider number with the department on or after December 1, 2000, must meet the following minimum qualifications:

Degree	Internship Length
Masters Degree in field acceptable to CRC or CDMS or ABVE	Equal to required experience to obtain CRC or CDMS or ABVE certification including at least 1 year working with industrially injured or ill workers.
OR	

Bachelors Degree in field acceptable by CDMS	Equal to required experience to obtain CDMS certification including at least 2 years working with industrially injured or ill workers.
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(b) Interns not registered with the department and applying for a provider number with the department on or after December 1, 2000, must obtain one of the required VRC certifications within one year of completing their required internship. Interns will remain in internship status during this time frame.

(c) Interns registered with the department as of November 30, 2000, will be required to apply for a provider number with the department and may work as an intern until the end of their current internship. Upon completion of the internship the intern may submit an application to the department as a VRC. These providers must obtain one of the required VRC certifications by November 30, 2010.

(d) All interns are required to conform to Title 51 RCW, department rules, and department policies. All interns granted a provider number by the department must be supervised by a VRC supervisor.

(e) No person shall serve as an intern under these rules for more than seventy-two months of full-time experience, or its equivalent, working with industrially injured or ill workers. The intern must notify the department when there is a change in the status of an internship.

(5) Interns may not receive referrals directly from the department or self-insured employers. Interns may perform aspects of vocational rehabilitation services under the supervision of a VRC supervisor.

(6) Providers who receive or are assigned referrals must comply with all electronic security requirements in place for accessing department files.

(7) Providers registered with the department as of November 30, 2000, who do not meet the above qualification requirements within the ten-year period will no longer be eligible to provide vocational rehabilitation services to industrially injured or ill workers and the department will terminate their provider number(s).

(8) Business requirements.

(a) Providers must comply with all federal and state laws, regulations and other requirements with regard to business operations. In order to be eligible to receive referrals from the department, providers must satisfy the requirements set forth in this subsection in every service location in which they wish to operate.

(b) Providers must be covered by general liability insurance, automobile liability insurance, errors and omission

insurance, malpractice insurance, and industrial insurance if required by Title 51 RCW.

(c) Providers must have services and facilities that provide injured workers a private and professionally suitable location in which to discuss vocational rehabilitation services issues. In order to be eligible to receive referrals from the department, providers must satisfy the requirements set forth in this subsection in every service location in which they wish to operate.

(d) Providers must have telephone-answering capability during regular business hours, Monday through Friday. In order to be eligible to receive referrals from the department, providers must satisfy the requirements set forth in this subsection in every service location in which they wish to operate.

(e) In order to receive referrals made by the department, providers must maintain or have access to equipment that can utilize the department's remote access system for transmitting vocational referrals.

(9) The department may assign a provider number to a vocational rehabilitation firm, partnership, corporation or other legal entity so long as substantial control over the daily management of the vocational rehabilitation firm, partnership, corporation or other legal entity is performed by a VRC that satisfies the qualifications set forth in this rule.

AMENDATORY SECTION (Amending WSR 03-11-009, filed 5/12/03, effective 7/1/03)

WAC 296-19A-480 When must providers comply with these rules? (1) The amendments to (~~the following section of chapter 296-19A~~) WAC 296-19A-210 become(~~s~~) effective (~~on~~) July 1, (~~2003~~;

~~WAC 296-19A-137 "When can the department request a stand alone job analysis?")~~) 2004.

(2) The following amendments to chapter 296-19A WAC and new sections become effective February 1, 2004:

WAC 296-19A-010 "Definitions."

WAC 296-19A-020 "When may the department offer vocational rehabilitation services?"

WAC 296-19A-025 "What information does the department consider when exercising discretion?"

WAC 296-19A-030 "What are the responsibilities of the parties?"

WAC 296-19A-040 "What vocational rehabilitation services require authorization?"

WAC 296-19A-045 "Which rules under 'department vocational rehabilitation referrals' apply only to the department?"

WAC 296-19A-060 "What reports does the department require when early intervention services are provided at its request?"

WAC 296-19A-065 "What are ability to work assessment (AWA) services?"

WAC 296-19A-070 "What is an ability to work assessment?"

WAC 296-19A-080 "How often must written progress reports be completed and submitted during assessment activities?"

WAC 296-19A-090 "What are vocational rehabilitation plan development services?"

WAC 296-19A-100 "What reports does the department require when vocational rehabilitation plan development services are provided at its request?"

WAC 296-19A-110 "What are vocational rehabilitation plan implementation and monitoring services?"

WAC 296-19A-120 "What reports does the department require when vocational rehabilitation plan implementation and monitoring services are provided at its request?"

WAC 296-19A-125 "What is the purpose of forensic services?"

WAC 296-19A-130 "What are the requirements for a forensic evaluation?"

WAC 296-19A-135 "What reports does the department require when forensic services are provided?"

WAC 296-19A-140 "What information must a provider include in a labor market survey?"

WAC 296-19A-170 "What information must a provider include in a job analysis?"

WAC 296-19A-180 "What job modification assistance benefits are available?"

WAC 296-19A-190 "How much is available for job modification assistance?"

WAC 296-19A-191 "What prejob accommodations are available?"

WAC 296-19A-192 "How much is available for prejob accommodations?"

WAC 296-19A-193 "What are the requirements for prejob accommodations?"

WAC 296-19A-200 "How does an employer apply for job modification assistance?"

WAC 296-19A-210 "What are the qualifications to provide vocational rehabilitation services to industrially injured or ill workers?"

WAC 296-19A-230 "Why does the department audit vocational rehabilitation providers?"

WAC 296-19A-240 "What authority does the department have to audit vocational rehabilitation providers?"

WAC 296-19A-245 "What is the department's formal appeal process?"

WAC 296-19A-260 "What are the possible consequences for a provider that does not comply with the RCWs, WACs or department policies?"

WAC 296-19A-270 "In what situation(s) can the department take corrective action(s)?"

WAC 296-19A-300 "How does the department evaluate performance when a vocational rehabilitation provider does not have either a performance rating with the department or previous experience delivering services to Washington injured workers?"

WAC 296-19A-350 "What are the requirements for case notes?"

WAC 296-19A-400 "What records are vocational rehabilitation providers required to maintain?"

WAC 296-19A-440 "What elements of a vocational determination may be disputed?"

(3) All remaining sections of chapter 296-19A WAC shall remain in full force and effect.