



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Labor and Industries

- Preproposal Statement of Inquiry was filed as WSR 08-10-073; or
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:** Independent Medical Examinations (IMEs) - WAC 296-23-302, Definitions, WAC 296-23-317 What qualifications must a provider meet to become an approved independent medical examination (IME) provider and be assigned an IME provider number? WAC 296-23-337, For what reasons shall the Department's medical director or designee suspend or terminate approval of an independent medical examination (IME) examiner or firm? WAC 296-23-387 What are the responsibilities of an independent medical examination (IME) provider regarding testimony?

**Hearing location(s):**  
 Date: June 23, 2009 Time: 1:00 PM  
 Tukwila Service Location  
 12806 Gateway Drive  
 Tukwila, WA 98168-1050  
  
 Date: June 29, 2009 Time 9:00 AM  
 Hampton Inn  
 2010 South Assembly Rd.  
 Spokane, WA 99224

**Submit written comments to:**  
 Department of Labor and Industries  
 Anita L. Austin  
 PO Box 44322  
 Olympia, WA 98504-4322  
  
 Email: SUND235@lni.wa.gov  
 FAX (360) 902-4292  
  
 Due by July 7, 2009

**Date of intended adoption:** July 21, 2009  
 (Note: This is **NOT** the **effective** date)

**Assistance for persons with disabilities:** Contact  
 Anita L. Austin\_ by June 16, 2009  
 (360) 902.6825 or FAX (360) 902.4249

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**  
 The proposed changes will improve the quality of the IME examination, the IME report and the worker's satisfaction with the IME process. The purpose of the proposed rules is to ensure the medical providers who become independent medical examiners know and meet the department's requirements. In the proposed rules, the existing requirements were clarified and additional requirements were added.

Other identifying information: None

**Reasons supporting proposal:** The proposed rules will demonstrate the department's willingness to address stakeholder concerns regarding the IME process and make the necessary changes. These rules also support the department's continuing efforts to improve quality of the process and the IME examination and report, which ultimately affect the resolution of workers' compensation claims.

**Statutory authority for adoption:** RCW 51.04.020, 51.36.080, 7.68.030, and 7.68.080

**Statute being implemented:**

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**DATE**

May 19, 2009

**NAME** (type or print)

Judy Schurke

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

**OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED**

**DATE: May 19, 2009**

**TIME: 11:18 AM**

**WSR 09-11-101**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

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

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting.....	Anita L. Austin	Tumwater, Washington	(360) 902- 6825
Implementation....	Robert Malooly	Tumwater, Washington	(360) 902- 4209
Enforcement.....	Robert Malooly	Tumwater, Washington	(360) 902- 4209

**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 contacting:

Name: Anita L. Austin  
Address: PO Box 44322  
Olympia, WA 98504-4322

phone (360) 902-6825  
fax (360)902-4249  
e-mail [sund235@lni.wa.gov](mailto:sund235@lni.wa.gov)

No. Explain why no statement was prepared.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Anita L. Austin  
Address: PO Box 44322  
Olympia, WA 98504-4322

phone (360) 902-6825  
fax (360)902-4249  
e-mail [sund235@lni.wa.gov](mailto:sund235@lni.wa.gov)

No: Please explain:

## **SMALL BUSINESS ECONOMIC IMPACT STATEMENT –INDEPENDENT MEDICAL EXAMINATIONS**

WAC 296-23-302, Independent Medical Examinations (IMEs) Definitions,

WAC 296-23-317 What qualifications must a provider meet to become an approved independent medical examination (IME) provider and be assigned an IME provider number?

WAC 296-23-337, For what reasons shall the Department’s medical director or designee suspend or terminate approval of an independent medical examination (IME) examiner or firm?

WAC 296-23-387 What are the responsibilities of an independent medical examination (IME) provider regarding testimony?

### **ASSESSING COSTS:**

Twenty-five individual IME providers will be impacted by WAC 296-23-317 (2)(a) and (2)(c). These portions of the rule require medical physicians, surgeons, osteopathic physicians and surgeons, and podiatrists to hold a current board certification in their specialty or to have completed a residency and be within five years of obtaining board certification. These providers will either become board certified or be disqualified as IME providers.

### **ECONOMIC IMPACT BY SIZE OF BUSINESS:**

All impacted providers qualify as small businesses.

### **REDUCING COSTS FOR SMALL BUSINESS:**

WAC 296-23-317 (2)(a)(ii) and (2)(c)(ii) provide that an IME provider who is not currently board certified can be an IME provider as long as they are within five years of becoming board certified. Thus effected providers need not be immediately disqualified; they can remain IME providers as long as they make efforts to complete board certification within five years.

### **SMALL BUSINESS INVOLVEMENT IN THE RULEMAKING:**

The IME Coalition participated in the rulemaking process.

### **INDUSTRIES REQUIRED TO COMPLY WITH THE RULE:**

Only that portion of the medical care industry that is involved in providing Independent Medical Examinations for L&I patients is required to comply with this rule.

### **JOBS EXPECTED TO BE CREATED OR LOST DUE TO THIS RULE:**

L&I does not expect that any jobs will be created or lost due to this rule.