

# CONCISE EXPLANATORY STATEMENT

## Psychologists and Physician Assistants as Attending Providers

Chapter 296-14 WAC, Industrial Insurance; Chapter 296-19A WAC, Vocational Rehabilitation; Chapter 296-20 WAC, Medical Aid Rules; Chapter 296-21 WAC, Reimbursement Policies: Psychiatric Services, Biofeedback, Physical Medicine; and Chapter 296-23 WAC, Radiology, Radiation Therapy, Nuclear Medicine, Pathology, Hospital, Chiropractic, Physical Therapy, Drugless Therapeutics and Nursing—Drugless Therapeutics, etc.

Public Hearing: February 26, 2025

Adoption: May 20, 2025

Effective: July 1, 2025

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## **I. Purpose of Rulemaking**

The purpose of this rulemaking is to implement House Bill 1197 (Chapter 171, Laws of 2023) *Defining attending provider and clarifying other provider functions for workers' compensation claims, and adding psychologists as attending providers for mental health only claims*. The primary purpose of that bill was to improve access to care for workers with mental health conditions by allowing psychologists to be the attending provider and by clarifying provider functions.

### **A. Background**

For the first time in statute, the bill includes a comprehensive list of the type of providers that can be attending providers for workers' compensation claims under Washington's Industrial Insurance Act. In addition to those already listed in the definition of "attending provider" in WAC 296-20-01002 *Definitions*, the bill adds psychologists in the case of claims solely for mental health conditions, and physician assistants. This rulemaking reflects that change. The full list in WAC 296-20-01002 now includes physician, osteopathic physician, chiropractor, naturopath, podiatric physician, dentist, optometrist, advanced registered nurse practitioner, psychologist in the case of claims solely for mental health conditions, and physician assistant.

An attending provider makes a diagnosis of physical and/or mental health conditions and comments on the worker's ability to work. The rulemaking amends language in the "attending provider report" and "consultation examination report" to clarify that the provider must use the edition of the American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders* (DSM) designated by the Department to diagnose mental health conditions. In addition, amended rule language clarifies that when the claim has an accepted mental health condition, the attending provider must consider certain mental health factors when commenting on the worker's ability to return to work.

### **B. Summary of the rulemaking activities**

The Washington State Association of Justice (WSAJ) and the Washington State Medical Association (WSMA) provided input on HB 1197 as it was being drafted.

Office of the Medical Director's (OMD) staff met with representatives of the Washington State Psychological Association (WSPA), and the Washington Academy of Physician Assistants (WAPA). They also met with L&I's primary medical advisory committees: Industrial Insurance Medical Advisory Committee (IIMAC), Industrial Insurance Chiropractic Advisory Committee (IICAC), and Advisory Committee on Healthcare Innovation and Evaluation (ACHIEv).

As part of the CR-102 process, direct emails were sent to representatives of 24 business/labor organizations and medical associations, and the Washington State Association of Justice.

## **II. Changes to the Rules (Proposed rule versus rule adopted)**

After additional review, L&I made a minor change to the definition of "regular work status" in WAC 296-20-01002 *Definitions*.

**CR-102 proposal:** The ((injured)) worker is ((physically)) capable of returning to ((his/her)) their regular work from physical, cognitive, emotional, and behavioral standpoints. It is the duty of the attending ((doctor)) provider to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending ((doctor)) provider if the condition is not stationary and such treatment is needed and otherwise in order.

**CR-103 adoption:** The ((injured)) worker is physically capable of returning to ((his/her)) their regular work. For an accepted mental health condition, the provider should consider mood, behavioral, and/or cognitive factors. It is the duty of the attending ((doctor)) provider to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending ((doctor)) provider if the condition is not stationary and such treatment is needed and otherwise in order.

## **III. Comments on Proposed Rule**

### **A. Comment Period**

The public comment period began January 22, 2025 (8:00 a.m.) and ended February 28, 2025 (5:00 p.m.). L&I received no written comments.

## **B. Public Hearing**

A public hearing was held on February 26, 2025 (2:30 p.m.). This was a hybrid hearing that originated from the Department of Labor & Industries' headquarters building, 7273 Linderson Way SW, Tumwater, Washington, 98501.

Two people attended via Zoom. One person testified in support of the rulemaking. One person signed in as supporting the rulemaking.

## **C. Summary of Comments Received and L&I's Responses**

Below is a summary of the comment L&I received.

<b>General Comments</b>	<b>L&amp;I Response</b>
I am a physician assistant practicing here in Washington. I am here today representing the Washington Academy of Physician Assistants (WAPA). I care for injured workers on a daily basis at my place of employment, and I'm proud to be here representing myself and other physician assistants who are members of WAPA. We are very much in favor of the rule change. Physician assistants have been providing high quality care to injured workers for many years, and we appreciate the work that has gone into this rule change. We are proud of the care that we provide, and we are grateful for the trust that our patients and Labor & Industries place in us.	Thank you for your comment.