



Concise Explanatory Statement

Summary of comments and agency responses regarding proposed rules filed under WSR 20-19-146.

The Department of Health (department) with consultation from the Board of Hearing and Speech (board) has adopted amendments to WAC 246-828-025 and 246-828-290. The rule amendments are necessary to implement Engrossed Substitute Senate Bill 5210 (chapter 183, Laws of 2019 codified as RCW 18.35.040 and 18.35.310). The amendments provide clear guidance to audiologists and hearing aid specialists that include changes to requirements for consumer notification of hearing instruments and their assistive technologies.

CITATION / TOPIC	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
WAC 246-828-025(3) Definition of "hearing assistive technologies."	<p>Hearing assistive technologies cannot increase intelligibility and clarity, only "attempt to improve" intelligibility and clarity as speech comprehension lies solely in the brain of the listener. A more appropriate description may be "devices that improve signal-to-noise ratio for attempting to improve sound quality or clarity in the presence of background noise."</p> <p>The law does not mention specific kinds of technology. Bluetooth is neither an assistive listening system or a device. The definition should therefore include the phrase "other technologies" to properly include Bluetooth or other methods that may arise.</p> <p>The proposed definition gives the impression that using an assistive device alone will improve intelligibility and clarity of speech, which isn't exactly what the device does.</p>	<p>The department and board agree with amending the definition to clarify how hearing assistive technologies help the patient.</p> <p><i>Was the rule changed as a result of these comments? Yes.</i></p> <p>The department has added clarification to the definition of "hearing assistive technologies" to better account for other technologies, and clarify and address the issue of background noise.</p>

CITATION / TOPIC	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
<p>WAC 246-828-290</p> <p>Section 4, Notice of Hearing Assistive Technologies</p>	<p>The extension of the rescission rights (Notice to Buyer) wording may cause an undo hardship on small business as the paperwork required to add another section pushes the information to two pages, requiring more paper and more time in review with patients. Any re-wording to decrease the verbiage required for review with patients to limit both paper usage and time spent in reviewing what could be superfluous information would be greatly appreciated.</p> <p>The wording in the signature portion of this form should also clarify that the purchaser has been informed of his/her rights under section four to receive oral and written information about hearing assistive technology and the purchaser has read and understand these rights. It is important for the purchasers to acknowledge in writing they have received the information, which is required by both now with the regulations and statute.</p>	<p>The department and board agree with amending proposed Section 4 of WAC 246-828-290 to add clarity and to keep the language as concise and direct as possible.</p> <p>Since most audiologists and hearing aid specialists already have purchaser forms, simply adding the check boxes is the most cost effective way for the patient to acknowledge receiving oral and written information.</p> <p><i>Was the rule changed as a result of these comments?</i> Yes</p> <p>Language was amended to be more concise and clearly state the patient must receive oral and written communication.</p>
<p>WAC 246-828-290</p> <p>Section 4, Notice of Hearing Assistive Technologies</p>	<p>FM is one of the most widely used assisted living devices and probably should be included in the option boxes to check off in the proposed rule at the end of Section 4 (Notice of Assistive Technologies).</p>	<p>The department and board determined that not listing FM technologies would exclude it since the language uses the phrase "includes but is not limited to" which allows for its inclusion. This allows the practitioner to determine the best device/technology for the individual patient.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
<p>Miscellaneous</p>	<p>The law and proposed rule may put an undue burden on both the licensed health care provider and purchaser. A legal formal legal review from the state is requested</p>	<p>The department and board have been working with the Attorney General's office throughout this rule making. A formal legal opinion in this case is outside of the parameters of this rule making.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>