

Significant Legislative Rule Analysis

WAC 246-817-440 and
246-817-445
a Rule Concerning
Dentist and Dental
Anesthesia Assistant
Health Equity
Continuing Education
Requirements



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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.

Engrossed Substitute Senate Bill (ESSB) 5229 (chapter 276, Laws 2021), codified as RCW 43.70.613, directs the rulemaking authority for each health profession licensed under Title 18 RCW, subject to continuing education (CE), to adopt rules requiring a licensee to complete health equity continuing education training at least once every four years. The statute also directs the Department of Health (department) to establish model rules creating minimum standards for health equity CE training programs.

All health equity rules adopted must meet or exceed the minimum standards established in the model rules. The health equity CE model rules, WAC 246-12-800 through 246-12-830, were adopted in November 2022, create four new sections of rule, and implement RCW 43.70.613: purpose, definitions, minimum health equity CE hours, and health equity CE training content. The health equity CE model rules require completion of two hours of health equity CE every four years for all health professionals credentialed under RCW 18.130.040 with a CE requirement. Pursuant to RCW 18.130.040, RCW 18.32.180, and RCW 18.350.030, and WAC 246-817-440 and 246-817-445, the requirement to adopt health equity CE requirements applies to dentist and dental anesthesia assistant. The health equity CE model rules also require that the two CE hours include implicit bias training to identify strategies to reduce bias during assessment and diagnosis. Rulemaking authorities for each profession may create standards that meet or exceed the minimum standards in the model rules.

The Dental Quality Assurance Commission (commission) is proposing WAC 246-817-440 and 246-817-445 amendments to establish health equity CE requirements to implement ESSB 5229. The commission is proposing to adopt the minimum standards of the health equity CE model rules, WAC 246-12-800 through 246-12-830, for dentists and dental anesthesia assistants to comply with RCW 43.70.613. The proposed rule adds two hours in health equity continuing education to the current continuing competency requirement every three years, rather than every four years as required by the model rules:

1. **For dentists, the rule does not change total hours:** The commission is proposing to adopt the model health equity CE rules by adding the required two hours in health equity CE every three years to the existing number of CE hours required for dentists without changing the existing total number of required CE hours.
2. **For Dental anesthesia assistants, the rule increases total hours:** The commission is proposing to adopt the model rules, requiring the two hours in health equity CE every three years for dental anesthesia assistants. In doing so the commission is proposing to increase the total number of existing CE hours from 12 to 14 to include the health equity CE courses.

The goal of health equity CE training is to equip health care workers with the skills to recognize and reduce health inequities in their daily work. The content of the health equity trainings includes instruction on skills to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

SECTION 2

Significant Analysis Requirement

As defined in RCW 34.05.328, a portion of the proposed rule, WAC 246-817-440 and 246-817-445, requires 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 of this analysis.

SECTION 3

Goals and objectives of the statute that the rule implements.

By January 1, 2024, RCW 43.70.613(1) requires each health profession credentialed under RCW 18.130.040 with a CE requirement to adopt rules requiring completion of health equity CE training at least once every four years. RCW 43.70.613(3) also directs the department to establish model rules creating minimum standards for health equity CE training programs. All rules adopted by each health profession must meet or exceed the minimum standards established in the model rules.

Pursuant to RCW 18.130.040, RCW 18.32.180, and RCW 18.350.030, the requirement to adopt health equity CE requirements applies to licensed dentists and dental anesthesia assistants. The goal of health equity CE training is to equip health care professionals with skills to recognize and reduce health inequities in their daily work. The content of the health equity trainings include instruction on skills to address structural factors, such as bias, racism, and poverty, which manifest as health inequities.

The proposed rule implements the statute's objectives by establishing health equity CE requirements that meet or exceed the model rules. The proposed rules:

- Adopt the model health equity CE rules by adding the required two hours in health equity CE every three years to the existing number of CE hours required for dentists without changing the existing total number of required CE hours.
- Adopt the model rules, requiring the two hours in health equity CE every three years for dental anesthesia assistants. In doing so the commission is proposing to increase the total number of existing CE hours from 12 to 14 to also include the health equity CE courses.

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.

The proposed rule amendment achieves the authorizing statute's goals and objectives by providing health equity CE requirements that are clear, concise, and necessary to ensure patient safety. The proposed rule represents the commission's commitment to achieve its statutorily defined goals and objectives identified in chapter 18.32 RCW.

The commission and interested individuals agreed that rulemaking is appropriate to promote clear and consistent guidance to persons seeking and maintaining dentist and dental anesthesia assistant licenses. Rulemaking provides applicants with clearly defined education, licensing, and CE accountability requirements. If the rule is not adopted, there will be confusion regarding the licensing and educational standards that apply to chapters 18.32 and 18.350 RCW to make sure that dentists and dental anesthesia assistants have been trained in health equity skills to address structural factors, such as bias, racism, and poverty, that manifest as health inequities. Additionally, a concisely written rule assures a level of confidence and safety that patients and families can rely on when receiving services from qualified implicit bias trained dentists and dental anesthesia assistants.

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 246-817-440 Dentist continuing education requirements.

Description: The proposed rule adopts the model health equity CE rules by adding the required two hours in health equity CE every three years to the existing number of CE hours required for dentists without changing the existing total number of required CE hours. The requirement for training every three years rather than four is consistent with the existing continuing education requirements. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Cost(s): There are no anticipated additional costs with the proposed rule. No additional CE hours are required to comply with the new health equity CE requirement. In fact, there could potentially be a cost-savings to the provider. ESSB 5229 requires the department to make a free online training available by July 1, 2023, to satisfy the health equity CE requirement. Dentists

will be able to obtain the new health equity CE by taking the free online training. If this free online health equity CE training replaces another CE training that required a fee, then the provider could see a cost savings.

Benefit(s): Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours.

WAC 246-817-445 Dental anesthesia assistant continuing education requirements.

Description: The proposed rule adopts the model health equity CE rules, requiring the two hours in health equity CE every three years for dental anesthesia assistants. In doing so the commission is proposing to increase the total number of existing CE hours to include the health equity CE courses. The requirement for training every three years rather than four is consistent with the existing continuing education requirements.

Cost(s): The proposed rule is anticipated to increase the costs for dental anesthesia assistants. ESSB 5229 requires the department to make a free online training available by July 1, 2023, to satisfy the health equity CE requirement. Dental anesthesia assistants will be able to obtain the new health equity CE by taking the free online training. The cost to the provider will be their time. The average hourly wage is \$24.24¹. For the 2-hour training the average cost to the provider will be \$48.48.

Benefit(s): Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional's interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity.

Determination

Probable Benefits greater than Probable Costs

¹ Washington – May 2022 OEWS State Occupational Employment and Wage Estimate (bls.gov)

The commission determined that the probable benefits of the proposed rule are greater than the probable costs of the proposed rule.

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.

The department staff worked closely with interested individuals and other constituents to minimize the burden of the model rules. The department worked to consult with patients and communities with lived experiences of health inequities or racism in the health care system when developing the model rules. The department held four listening sessions that invited individuals with lived experiences of health inequities or racism in the health care system to share their experiences, which the department used to develop the model rule language. The department also held four rules workshops where the model rule language was developed with the public. During the public rule workshops, comments were provided to the department. After careful consideration, the department's interested party process encouraged parties to:

- Identify burdensome areas of the existing rules;
- Propose initial or draft rule amendments; and
- Refine those amendments.

The commission discussed the proposed rule at a rules workshop held on March 29, 2023, and a regular commission business meeting held on April 28, 2023. Public comments were solicited using the dental GovDelivery list and during the March 29, 2023, and April 28, 2023, public meetings.

The commission took into consideration how best to include the additional two hours every four years, considering whether to increase existing hours, and determined that incorporating the hours into existing requirements for dentists and adding two additional continuing education hours for dental anesthesia assistants would be the least burdensome. The addition of two continuing education hours for dental anesthesia assistants will allow individuals to gain a foundation in health equity while ensuring they still receive adequate hours of continuing education related to direct application of dental anesthesia assistant knowledge and skills.

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 proposed rule does not require those to whom it applies to take an 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 proposed 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.

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 proposed rule does not differ than any federal regulation or statute applicable to the same activity or subject matter.

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.

The proposed rule does not differ from any federal regulation or state applicable to the same activity or subject matter.