

Significant Legislative Rule Analysis

Amending WACs 246-924-230, 246-924-240, 246-924-250, 246-924-255, 246-924-300, and 246-924-330, Rules Concerning Continuing Education and Health Equity Continuing Education Requirements in Chapter 246-924 WAC, Psychologists.



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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 rule-making 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 CE 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 WAC 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. 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. Pursuant to RCW 18.130.040 and RCW 18.83.090, the requirement to adopt health equity CE requirements applies to psychologists.

The Examining Board of Psychology (board) is proposing amendments to chapter 246-924 WAC to establish health equity CE requirements to implement ESSB 5229. The board is proposing adopting the health equity CE model rules, WAC 246-12-800 through 246-12-830, for psychologists to comply with RCW 43.70.613. The proposed rule adopts the model rules, requiring two hours in health equity CE every three years for psychologists, without changing the existing total number of required CE hours.

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 implicit bias training to identify strategies to reduce bias during assessment and diagnosis in an effort to address structural factors, such as bias, racism, and poverty, that manifest as health inequities.

Additionally, the board is proposing amendments to chapter 246-924 WAC to update and clarify existing CE requirements for psychologists. The amendments will update outdated or confusing language and provide clear, concise regulations for providers.

SECTION 2

Significant Analysis Requirement

As defined in RCW 34.05.328, several rules require 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. Rules requiring significant analysis include WACs 246-924-230, 246-924-250, and 246-924-330. The analysis can be found in SECTION 5 of this analysis.

The following SA Table 1 identifies rule sections or portions of rule sections that are not considered significant legislative rules or are exempt from significant analysis under RCW 34.05.328 (5)(b).

SA Table 1. Summary of Sections not requiring Significant Analysis

WAC Section and Title	Description of Proposed Changes	Rationale for Exemption Determination
246-924-240 Definitions of categories of creditable continuing education (amend)	<ul style="list-style-type: none"> Clarifying the section’s title; Clarifying language about CE pre-approval; and Removing redundant information about suicide prevention CE requirements 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”
246-924-255 Suicide intervention training standards (amend)	<ul style="list-style-type: none"> Clarifying the section’s title and other language; Removing obsolete or updating language; and Removing duplicate language that’s incorporated by reference 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”
246-924-300 Definition of acceptable documentation and proof of CE (amend)	<ul style="list-style-type: none"> Clarifying the section’s title; Updating terminology for consistency with the rest of Ch 246-924 WAC; and Adding subsections for clarity 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”

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 and RCW 18.83.090, the requirement to adopt health equity CE requirements applies to psychologists. 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 includes 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 require two hours in health equity CE every three years for psychologists, without changing the existing total number of required CE hours.

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 board’s commitment to achieve its statutorily defined goals and objections identified in chapter 18.83 RCW.

The board and interested individuals agreed that rulemaking is appropriate to promote clear and consistent guidance to persons seeking and maintaining a psychologist license. Rulemaking provides applicants with articulately described 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 chapter 18.83 RCW to make sure that psychologists have been trained in recognizing and reducing implicit bias. Additionally, a concisely written rule assures a level of confidence and safety that patients and families can rely on when receiving services from qualified psychologists.

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 246-924-230, Continuing education requirements.

Description: The proposed rule requires two hours of health equity CE every three years. The proposed rules adopt the model health equity CE rules but require two hours in health equity CE every three years, instead of every four years. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession. In doing so the board is proposing to include the health equity CE within the existing total number of required CE hours.

Additionally, proposed amendments clarify and simplify existing rule language. These amendments are exempt from significant analysis under RCW 34.05.328(5)(b)(iv), as they “clarify language of a rule without changing its effect.”

Cost(s): The proposed rule is not anticipated to increase costs for psychologists. 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. Psychologists will be able to obtain 2 hours of the new health equity CE by taking the free online training. However, they will have to take the free online course or another qualifying training every three years, instead of every four years. 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.

Additionally, requiring psychologists to complete health equity CE every 3 years, rather than every 4 years, will align health equity CE requirements with the board’s 3-year CE cycle. The proposed rules will allow psychologists to complete 2 hours of health equity CE each 3-year CE cycle, rather than tracking CE requirements based on both a 3-year CE cycle and a 4-year health equity CE cycle.

WAC 246-924-250, Continuing education – Special considerations.

Description: This rule section addresses how the board handles CE in special circumstances, such as expired licenses, waiver requests, and practice outside the state of Washington. The WASHINGTON STATE DEPARTMENT OF HEALTH

board proposes removing a provision that allows psychologists licensed in Washington, but practicing in a different state or country, to request the board recognize completion of the another jurisdiction's CE requirements to fulfill Washington's CE requirements.

Additionally, the board is proposing changes exempt under RCW 34.05.328(5)(b)(iv) because they "only... clarify language of a rule without changing its effect." These changes include moving commonly-requested information toward the beginning of the rule section, rephrasing language to be clearer and more concise, and removing obsolete and duplicate language.

Cost(s): The board anticipates that the proposed amendment will not impose any additional costs on providers. CE courses are not specific to a jurisdiction, so a psychologist practicing in a different jurisdiction and fulfilling the other jurisdiction's CE requirements could use the same CE courses to fulfill Washington's CE requirements. Additionally, no one has requested recognition of another jurisdiction's CE requirements within the memory of the board or department staff.

Benefit(s): Removing this provision will allow the board to clarify CE rules in chapter 246-924 WAC. Although this provision is infrequently used and does not prompt inquiries to the board and department staff, it is ambiguous and makes the rule section more difficult to understand. Removing confusing, duplicate, and unnecessary language will allow licensees to more easily locate and understand rules in chapter 246-924 WAC.

WAC 246-924-330, Continuing education - Exemptions.

Description: This rule section addresses when the board grants extensions or waivers of CE. The board proposes removing retirement as a reason the board may waive a psychologist's CE requirements indefinitely. Waivers could still be granted due to illness, though the psychologist would be required to refrain from providing psychological services until they had resumed meeting CE requirements.

Cost(s): The board anticipates that the proposed amendment will not impose any additional costs on providers; in fact, it may present a cost savings if individuals switch to a retired active license, rather than maintaining the active psychologist license.

Waivers of CE are currently available at the board's discretion; they are not guaranteed to any provider for any reason. Licensed psychologists are expected to meet all requirements of licensure, including bearing the cost of any necessary CE courses. Removing retirement as a possible reason for receiving a CE waiver will merely require individuals with an active psychologist license to meet the requirements for an active psychologist license.

Additionally, individuals seeking waiver of CE based on retirement are likely eligible to obtain a retired active license under WAC 246-924-500. Based on the psychology fee schedule in WAC

246-924-990, the retired active license fee is \$105, half the cost of the active psychologist license fee.

Benefit(s): The proposed rule change will protect patient safety by ensuring all currently-licensed psychologists meet licensure requirements and maintain current knowledge of the field of psychology. Individuals who seek a CE waiver based on retirement will be able to either (1) complete CE requirements and maintain active licensure as a psychologist, or (2) switch to a retired active credential, which has a lower licensure fee.

Determination

Probable Benefits greater than Probable Costs

The proposed rule amendments will give providers a foundation in health equity and implicit bias training. The training itself is free, the time required to complete the training more frequently than the statutory minimum will cost less than \$9 per year, and the more frequent schedule will simplify how psychologists track CE requirements.

It was 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.

WAC 246-924-230, Continuing education requirements.

Description: The proposed rule requires two hours of health equity CE every three years. The proposed rules adopt the model health equity CE rules but require two hours in health equity CE every three years, instead of every four years. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession. In doing so the board is proposing to include the health equity CE within the existing total number of required CE hours.

Alternatives considered:

- The board considered requiring health equity CE every 4 years, the statutory minimum. Requiring health equity CE every 4 years would meet the requirements of ESHB 5229, but would be difficult for individual psychologists to track. CE for psychologists is tracked on a 3-year cycle. Tracking health equity CE on a 4-year cycle while continuing to track other CE on a 3-year cycle would likely lead to confusion and mistakes. These mistakes could even lead to disciplinary actions if discrepancies were identified by the department during a routine CE audit. To reduce confusion and simplify CE tracking for psychologists, the board decided to require health equity CE on a 3-year schedule, consistent with other CE for psychologists.
- The board also considered requiring 4 hours of health equity CE, rather than 2 hours. However, the board was concerned it may not be possible to find a free 4-hour training that met all ESHB 5229 and the board's requirements. As a result, the board decided to require 2 hours of health equity CE and refer psychologists to the free training identified by the department.

Cost of alternative chosen vs the statutory minimum:

Because the proposed rules require psychologists to complete health equity CE on a more frequent basis than the statutory minimum, there will be a cost to the provider for their time if compared to CE interval of four years in the statutory minimum. For clinical and counseling psychologists in Washington, the average hourly wage is \$49.61.¹ To understand potential costs to psychologists, the department estimated costs over a 12-year period. The proposed rule will result in psychologists completing 8 hours of health equity CE, instead of 6 hours (as written in the model health equity CE rules) (SA Table 2).

¹ [Washington - May 2021 OEWS State Occupational Employment and Wage Estimates \(bls.gov\)](#)

SA Table 2. Analysis of hour impacts between existing, model, and proposed (analysis of 12 year impact)

Version	Years	Total CE Hours	Change in Hours	Impact
Current Rule	12	240	No change	N/A
Proposed Rule	12	240	No change	No change from current total hours

Version	Years	Total Health Equity CE Hours	Change in Hours	Impact
Model Health Equity CE Rules	12	6	+6	N/A
Proposed Health Equity CE Rules	12	8	+8	Adds +2 additional hours from model rule

The cost of those extra 2 hours of time as compared to the statutory minimum is approximately \$100.² Spread over that 12-year period, the annual additional cost to a psychologist is estimated to be less than \$9,³ or approximately \$25⁴ per 3-year CE cycle.

WAC 246-924-250, Continuing education – Special considerations.

Description: The proposed rule removes a provision that allows psychologists licensed in Washington, but practicing in a different state or country, to request the board recognize completion of the other jurisdiction’s CE requirements to fulfill Washington’s CE requirements.

Alternatives: The board considered leaving the provision as it is. However, upon discussion, the board and department staff could not identify circumstances in which using this provision would be appropriate. The board and the department also have not been able to identify a time when the board has received a request under this provision. The rule disposition reveals that WAC 246-924-250 has not been amended since 1999, when telehealth services were relatively uncommon. Possibly this rule was used pre-telehealth, in situations where a provider licensed in multiple jurisdictions resided outside of Washington state. Such a provider would most likely be unable to provide regular services to Washington residents, reducing the board’s interest in ensuring the provider met Washington’s CE requirements. Now that practice across jurisdictions through telepsychology is common and CE courses are rarely jurisdiction-specific,

² \$99.22 for two hours of time.

³ \$8.27 per year, over a 12-year period.

⁴ \$24.81 per 3-year CE cycle.

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this provision has very limited utility. Because this provision is unused and is confusing, the board decided to remove it.

WAC 246-924-330, Continuing education – Exemptions.

Description: The proposed rule removes a provision that allows psychologists request an indefinite waiver of CE requirements based on retirement.

Alternatives: The board considered leaving the provision as it is. However, the board feels that maintaining CE requirements for licensed psychologists will protect patient safety. The department Provider Credential Search Database, which allows patients to confirm their provider’s credentials, does not have the ability to reflect that a fully licensed psychologist has been excused from completing CE and is refraining from practice. Additionally, the board has no enforcement mechanism to prevent retired psychologists from practicing in violation of their agreement to refrain from practice. Requiring licensed psychologists to complete CE requirements will ensure that anyone eligible to treat patients is maintaining current knowledge of the field of psychology.

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.