



Concise Explanatory Statement

Summary of comments and agency responses regarding rules for dietitians and nutritionists filed under WSR 24-10-089 impacting chapter 246-822 WAC.

Background

The rules in chapter 246-822 WAC for dietitians and nutritionists were initially established in 1988 -1989, with minor changes in later years. As a result, they are now inconsistent with current national standards and department processes. This rule update was initiated by dietitians requesting that the department modernize the rules to reflect professional standards which had evolved since the last major revision in the 1980s. The adopted amendments update certification standards consistent with national professional standards, department processes, and Washington statute.

The adopted amendments include: updated rules to align with national professional standards for dietitians; clear standards for education, experience, and supervision requirements; updated rules that reflect current department processes; removal of redundant mandatory reporting language; and updates and cross references for clarification.

Initial workshops for this rule were held prior to the Coronavirus disease 2019 (COVID-19) pandemic at which point rulemaking was paused and then resumed by different staff. The department filed a CR-102 rule proposal under WSR 23-22-131 on November 1, 2023, and the first public hearing for these rules was held on December 5, 2023. At that hearing, the department heard from interested individuals and organizations that expressed frustration that work they contributed to the rules, prior to COVID-19, was not reflected in the rule language. For example, the definition of “Nutrition Care Process” was left out of the rule language.

To address the concerns the department drafted supplemental rule language, and requested feedback of supplemental rule language from interested individuals and groups. The department filed a supplemental CR-102 on April 30, 2024, under WSR 24-10-089 and held a public hearing on the supplement rule language on June 5, 2024.

During the supplemental public hearing on June 5, 2024, individuals requested that the term “Nutrition Care Process” be removed from the definition section in WAC 246-822-010. The department decided to move the definition of “Nutrition Care Process” out of WAC 246-822-010, and instead include it under WAC 246-822-135 Dietitian minimum core curriculum to address concerns raised. This change provides clarification that it is an educational

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requirement for dietitians. The department also made a minor clarification edit to WAC 246-822-175, Providing Services, to refer back to the specific RCW subsections for the practice of both dietetics and nutritionists. Finally, the department removed reference to any profession type in the sub-definition of “Nutrition diagnosis” to avoid appearing as if the department were changing scope of practice for either profession.

Summary of all comments received since filing the CR-102 regarding the proposed rule, program's responses, and either how the final rule reflects agency consideration of those comments or why the agency cannot use those comments.

The two tables below summarize comments received at the initial public hearing on December 5, 2023 and the supplemental public hearing on June 5, 2024. Among the people who attended the initial public hearing on December 5, 2023 there were 95 people that attended and 9 people that commented during the hearing. During the supplemental proposal hearing on June 5, 2024 there were 15 people that commented at the hearing.

| Summary of Comments Received on the 12/5/2023 Public Hearing and the Department Response | | |
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| Topic or Citation | Comments Received | Department Response |
| WAC 246-822-010 Definitions | Comments received from the Academy of Nutrition and Dietetics (AND), Washington State Academy of Nutrition and Dietetics (WSAND), and multiple dietitians stating that they support the proposed amendments but request that the definition of “dietetics” include the “nutrition care process” and be amended to reflect current level of competence and standards for dietitians. | The department appreciates the comments and included the term “nutrition care process” in the definition section of the supplemental proposal. After the supplemental public hearing, the department moved the definition into WAC 246-822-135 Dietitian minimum core curriculum, to make it clear that it is an education requirement for certified dietitians. |
| WAC 246-822-010 Definitions | Comments received in support of this section but suggesting that the department modify the definition of “qualified supervisor” for clarity. | The department made changes in the supplemental proposal to clarify that a “qualified supervisor” is either a dietitian credentialed by the department or registered by the commission on dietetic registration (CDR) as a registered dietitian. |
| WAC 246-822-120 Nutritionist application requirements | Comments received suggesting the department cite back to the minimum core curriculum requirements in WAC 246-822-130 in this section for clarity. | The department appreciates this comment and made this change in the supplemental proposal. |
| WAC 246-822-130 Nutritionist minimum | Comments received suggesting removal of the words “a closely related field” in this section or amend it to “an equivalent course of study.” | The department understands that this language could cause confusion and decided to remove “a closely related field” and instead include reference to the |

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| core curriculum | | requirements in RCW 18.138.030(4)(b). |
| WAC 246-822-132 Dietitian application requirements | Comments in support of the section but recommend adding language that clarifies that transcripts demonstrate meeting the minimum core curriculum under WAC 246-822-135 and that the exam results be sent directly from CDR to the department should be for the Registered Dietitian Nutritionist (RDN) exam. | The department included language in WAC 246-822-132(2)(a) to explicitly state that transcripts must reflect the requirements in WAC 246-822-135. Additionally, reference to the RDN exam results from the CDR was included in WAC 246-822-132(2)(c). |
| WAC 246-822-135 Dietitian minimum core curriculum | Comments received supportive of the intent of this section but recommend including greater specificity to ensure education standards are further aligned with the Accreditation Council for Education in Nutrition and Dietetics (ACEND) standards. | The department added the educational requirement of learning how to implement the “nutrition care process” and principles of medical nutrition therapy, which are included in ACEND’s standards. The supplemental proposal also includes a definition of the “nutrition care process” with relevant sub-definitions as education requirements to address this concern. |
| WAC 246-822-141 Dietitian supervised pre-professional experience | Comments received in support of the proposed rule but requesting greater specification to ensure the rules keep pace with advances in the profession and requirements of ACEND. | The department adjusted the rule language of this section in the supplemental proposal to make it clear that the hours of competency-based practice in dietetics must include practical experience that meets the competency standards of an ACEND accredited dietetic internship. |
| WAC 246-822-145 Dietitian coordinated program | Comments received in support of the proposed rule but requesting this section include citations to the curriculum and preprofessional experience WAC sections and to make it clear that a coordinated program accredited by ACEND also satisfies the requirements of this section. | The department appreciates these comments and made the requested changes in the supplemental proposal. |
| WAC 246-822-147 Supervision and qualified supervisors | Comments received requesting increased specificity of certain terms used in the rule language to make it clear that a qualified supervisor is either a dietitian certified by the department or registered as a registered dietitian nutritionist by the CDR, instead of just stating that they are registered by the CDR. | The department appreciates these comments and made the requested changes to clarify the language in the supplemental proposal. |
| WAC 246-822-175 | Comments received asking for either removal of subsection (1) and (2) that | The department appreciates these comments and changes were made in the |

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| Providing services | refer to scope of practice or add language to clarify the distinction between certified nutritionists' and certified dietitians' scopes of practice. As written, the rule appears to conflict with statute and is unclear. | supplemental proposal to address these concerns by eliminating unnecessary language and citing directly to RCW 18.138.010 and relevant subsections for scopes of practice for both professions. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Request to have recognition of Certified Diabetes Care and Education Specialist (CDCES) credential and state in rule that dietitians with a CDCES can train clients on things like glucometer use, insulin pump placement, etc. | Currently there is no CDCES in chapter 18.138 RCW. The inclusion of the "nutrition care process" as an education requirement for certified dietitians may address this concern. Additionally, the department will be starting rulemaking on this chapter soon to discuss the recognition of national credentials in response to section 8 of Second Substitute House Bill 1724 (chapter 425, Laws of 2023). The department looks forward to public participation in the conversation. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Comment received in support of the rules. | The department appreciates the comment, and no changes were made to the rule language. |
| Chapter 246-822 WAC Dietitians or Nutritionists | One comment requesting that dietitians be allowed to order nutrition-based medical labs without a physician's authorization. | The department amended WAC 246-822-135 Dietitian minimum core curriculum to include education in medical labs including ordering. However, the department does not have the authority to allow dietitians to bypass physician's authorization and this decision may be up to individual facilities, unless it is explicitly stated in law. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Comments received requesting to have the Registered Dietitians (RD) and Certified Nutrition Specialist (CNS) credential in rule and to have them both have the same scope of practice, request to have the rule language recognize the Doctor in Clinical Nutrition (DCN) credential and create a scope of practice for the credential, and a request to have the certified nutritionist scope of practice be set equivalent to the certified dietitian credential. | RCW 18.138 RCW recognizes the certified dietitian and certified nutrition credentials and does not include any national credential like the RD or CNS. However, the department will be starting more rulemaking soon to discuss the recognition of national credentials in response to section 8 of Second Substitute House Bill 1724 (chapter 425, Laws of 2023). The department looks forward to public participation in the conversation. Currently there is no DCN credential in chapter 18.138 RCW. To create this credential and any scope of practice under it, there would need to be legislative action. |

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| | | <p>Certified nutritionists' scope of practice cannot be set equivalent to the scope of practice for certified dietitians as they are differentiated by law in RCW 18.138.010(1) and (3) for certified dietitians, and RCW 18.138.010(2) and (4) for certified nutritionists. To change the existing laws, there would need to be legislative action.</p> <p>No changes were made to the rule language.</p> |
| Chapter 246-822 WAC Dietitians or Nutritionists | One comment received about telehealth and the potential dietitian licensure compact between states which asked if the proposed rules negate the compact. | The rule language would not limit participation in a dietitian licensure compact if Washington were to participate in a dietitian compact in the future. Compact participation by state requires passing a law and amending RCW. No changes were made to the rule language. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Request that Registered Dietitian (RD) and certified nutritionists be separated in rule due to concerns that credentials are being used inappropriately. | There is no RD credential in rule or in law, and to recognize the RD credential in rule there would need to be legislative action. The department did separate out the certified dietitian credential from the certified nutrition credential in rule because they are separate credentials in law and are differentiated in chapter 18.138 RCW. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Concerns that the rules do not represent the day-to-day activities of dietitians. Would like additional language around specific activities (creating tube feeding orders, etc.) included in the rule. | The department included the "nutrition care process" in the supplemental proposal and later moved the definition into the education requirements for certified dietitians to address this concern and update the rule to reflect current education standards. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Comments received requesting that language from a workshop in 2019 be added to the rule. | The department worked with interested parties after the December 5th, 2023 meeting and proposed additional draft language which resulted in the supplemental proposal. Comments on the supplemental proposal are included in the table below. |

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Summary of Comments Received on the 6/5/2024 Supplemental Proposal and the Department Response

| Topic or Citation | Comments Received | Department Response |
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| WAC 246-822-010 Definitions | <p>Multiple comments received in opposition to the rules stating that the “nutrition care process” was a trademarked term and request that it be removed.</p> <p>Comments also stated the nutrition care process does not have anything to do with education requirements for dietitians.</p> | <p>The department confirmed that this is not a trademark term.</p> <p>The nutrition care process is an important part of dietetic education according to the Accreditation Council for Education in Nutrition and Dietetics (ACEND). ACEND accredits dietetics education programs in colleges and universities. Additionally, knowledge of the nutrition care process is tested on the exam offered by the Commission on Dietetics Registration (CDR).¹ The department removed the “nutrition care process” term from the definition section and placed it in the education requirement section for certified dietitians.</p> |
| WAC 246-822-010 Definitions | <p>One comment from both Washington State Academy of Nutrition and Dietetics (WSAND) and Academy of Nutrition and Dietetics (AND) in support of the rules but requesting the definition of “Nutrition diagnosis” be changed to “identifying and labeling nutrition problems managed and treated by certified dietitians” and remove mention of certified nutritionists.</p> | <p>The department cannot change the scope of practice for either profession in rule (WAC). Scope of practice is set in law (RCW). To avoid appearing as if the department is setting scope of practice and avoid putting policy in a definition, the reference to any profession type was removed from the definition. The definition of “Nutrition diagnosis” was simplified to “identifying and labeling nutrition problems.”</p> |
| WAC 246-822-010 Definitions | <p>Some comments received in opposition to the rules stating that the CDR is not the only body that houses nutritional practitioners and that dietitians are not the only profession qualified to practice dietetics. These comments also stated that the definition of “certified dietitians” in WAC is discriminatory against those with a Certified Nutrition Specialist (CNS) credential.</p> | <p>The department agrees that the CDR is not the only body that houses certified nutritionists. The department is open to further discussion about other bodies to include in the definition section for the nutrition profession. The department will be starting more rulemaking on this chapter soon to discuss the recognition of national credentials in response to section 8 of Second Substitute House Bill 1724 (chapter 425, Laws of 2023). The department looks</p> |

¹ Nutrition Care Process Overview. Available at: <https://www.eatrightpro.org/practice/nutrition-care-process/ncp-overview#:~:text=The%20Academy%20works%20with%20a,the%20RDN%20and%20NDTR%20exams>. Accessed 6/26/2024.

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| | | <p>forward to public participation in the conversation.</p> <p>Certified dietitians are the only profession qualified to practice dietetics according to law in RCW 18.138.010. The department cannot change the law (RCW) in rule (WAC). The definition in WAC of “certified dietitian” means a person certified to practice dietetics under chapter 18.138 RCW and chapter 246-822 WAC. This definition cites directly back to RCW and has not been changed in WAC. To change the definition of “certified dietitian” there would need to be legislative action as the department does not have the authority to change the RCW.</p> <p>Currently in RCW, there is no CNS credential. The department understands that the CNS credential requires similar education and training compared to the certified dietitian credential. However, the department does not have the authority to create a CNS credential in rule as this would require legislative action. However, the department will hold discussions about recognizing national credentials during the next rulemaking project as mentioned above.</p> |
| WAC 246-822-010 Definitions | Comments received requesting to change the “Nutrition Care Process” to “General Nutrition Services.” | The department appreciates this comment. However, changing the term to “General Nutrition Services” would cause confusion regarding education requirements for both certified dietitians and certified nutritionists. The department determined that some of the sub-definitions included under the “nutrition care process” are beyond the definition of “general nutrition services” per RCW 18.138(2) and (4). To avoid confusion, “Nutrition Care Process” was removed from WAC 246-822-010 and was instead placed in the education requirement section for certified dietitians |
| WAC 246-822-010 Definitions | Comments received in opposition to the rules with commenters noting that they disagree with changes made to the qualified supervisor definition. | The definition of a qualified supervisor in the rule states that a qualified supervisor is either a dietitian who is credentialed as a certified dietitian (CD) under this rule chapter by the department, or a Registered Dietitian (RD/RDN) who is registered by the |

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| | | <p>commission on dietetic registration (CDR). RCW 18.138.030(c) states that CDs must complete a preprofessional experience in dietetics under the supervision of “a certified dietitian or a registered dietitian.” The rule language copies the RCW requirement by defining a qualified supervisor as either a “certified dietitian” in Washington state or a RD credentialed with the CDR. The only organization that offers the registered dietitian RD credential is the CDR. To change this requirement or add other types of “qualified supervisors” beyond a Washington CD or a RD certified with CDR, legislative action would be required. No changes were made to the rule language. There is no preprofessional experience requirement for nutritionists in RCW or WAC.</p> |
| <p>Chapter 246-822 WAC Dieticians or Nutritionists and WAC 246-822-150 Examinations</p> | <p>Comments received in opposition to the rules stating that there is no mention of the Certified Nutrition Specialists (CNS) exam in the chapter. These comments also stated that the proposed rules exclude those with a CNS credential from becoming certified dietitians (CDs) as the rule requires the completion of the CDR exam.</p> | <p>The department considered the CNS exam as an exam that could qualify for the CD credential. However, RCW 18.138.030(d) requires the exam for CDs be “an examination for dietitians” per statute. It is unclear if the CNS is an “exam for dietitians” as it is described as a requirement to obtain a CNS credential, which is a credential that recognizes an individual as a highly qualified nutrition professional, or personalized nutrition practitioner.² This credential is provided by the Board for Certification of Nutrition Specialists, however ACEND and other dietetic organizations do not recognize it as “an exam for dietitians.” Additionally, it is the department’s understanding that ACEND is the only dietetic accrediting body recognized by the U.S. Department of Education for such purposes. Allowing the CNS exam to qualify an applicant for a CD credential would require clarity from the legislature. Recognition of the CNS credential and any scope of practice also requires legislative action. No rule changes were made as a result of these comments.</p> <p>However, the department will be starting more rulemaking on this chapter related to</p> |

² The American Nutrition Association. Become a CNS (Accessed June 2024). <https://www.theana.org/certify/become-a-cns/>.

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| | | national credentials in the near future. The rulemaking will discuss recognition of national credentials in response to section 8 of Second Substitute House Bill (2SHB) 1724 (chapter 425, Laws of 2023). The department encourages public participation in this future rulemaking. |
| WAC 246-822-175 Providing Services | Comments received in support of the rules stating that telehealth services clarify that both professions are able to provide services when appropriate for the client. | The department appreciates these comments. No rule changes were made as a result of these comments. |
| WAC 246-822-175 Providing Services | Statements received in support of the rule but asking for language to be added to state that a certified dietitian may provide all activities included in the “nutrition care process” and the provision of nutrition care services that fall within the scope of dietetics as defined by RCW 18.138.010. | The department did not make any changes to the rule language after receiving these comments. To avoid confusion between rule (WAC) and law (RCW) and to avoid any appearance of setting scope of practice in rule, the department decided it was best to keep WAC 246-822-175 simple and cite directly to the statute for any concerns regarding scope of practice or providing services for both certified dietitians and certified nutritionists. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Comments received in opposition to the rules stating that the rule will hurt nutritionists and their livelihood. Related comments expressed concern that this rule will impact nutritionists’ ability to bill and that nutritionists will be removed from insurance rights, particularly for Medical Nutrition Therapy (MNT). | The department appreciates this concern. Rules related to billing are handled by the Health Care Authority (HCA). Scope of practice is set by RCW and the rules do not change the scope of practice that is set in RCW 18.138.010(1) and 18.138.010(3) for certified dietitians, or RCW 18.138.010(2) and 18.138.010(4) for certified nutritionists. To make changes to the scope of practice for either profession, legislative action would be needed. To make it clear that the “nutrition care process” is an education requirement for dietitians, the term was removed from the definition section and moved to the education requirements for certified dietitians. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Multiple comments received in support of the rules stating that to ensure the highest standards of patient care and safety, it is crucial that dietitians in Washington state receive consistent and rigorous training in both academic and clinical | The department appreciates these comments. The “nutrition care process” term remains in the rule language, however it was moved from the definition section to the education requirement section for dietitians to help with clarity of the rules. No other changes to the rule language were made as a |

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| | settings. Standardized competency qualifications for dietitians, as set by ACEND, are essential. ACEND serves as the accrediting agency for education programs and dietetic internships preparing students for careers as dietitians. It is the only dietetic accrediting body recognized by the U.S. Department of Education for such purposes. The comments appreciate that the department has attempted to align state rules with these standards for dietitians and urge the department to maintain the term “nutrition care process” to ensure dietitians are trained according to current standards. | result of these comments. |
| Chapter 246-822 WAC Dietitians or Nutritionists | One comment in support of the rule overall but requesting the department recognize the Registered Dietitian (RD/RDN) credential. | Chapter 18.138 RCW does not recognize the RD or RDN credentials. It only includes the certified dietitian and certified nutrition credentials. However, the department will be starting more rulemaking that will discuss recognition of national credentials in response to section 8 of Second Substitute House Bill (2SHB) 1724 (chapter 425, Laws of 2023). The department encourages public participation in this future rulemaking. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Comments received in support stating that while there are highly trained and qualified nutritionists, there is no guarantee from an independent organization that particular competencies were met for nutritionists. | No changes were made to the rule language as a result of these comments. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Comments noting that the department used incorrect terms on the CR102 forms and supplemental material. | The department mistakenly used the term “license” or “licensed” instead of “certified” when referring to dietitians and nutritionists on the CR102 forms and supplemental materials. The department apologizes for this mistake and has fixed all documentation going forward and corrected the errors in the supplemental material. |
| Chapter 246-822 WAC Dietitians or Nutritionists | One comment received requesting the department recognize the Doctor of Clinical Nutrition (DCN) credential. | There is no mention of a DCN credential in RCW and the department cannot create a new credential type in rule. Legislative direction is needed for the department to recognize the DCN credential. |
| Chapter 246- | A comment received stating that the | The department reviewed RCW and |

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| 822 WAC Dietitians or Nutritionists | rules are overreaching by setting standards more than title protection only. | determined the rules fall within statutory authority and align with national standards. |
| Chapter 246-822 WAC Dietitians or Nutritionists | Comments noting that some people were not aware of the initial rule proposal | Thank you for this feedback. The department is actively taking steps to improve the rulemaking process for all Washingtonians. Interested individuals are encouraged to monitor the dietitian and nutritionist program website at https://doh.wa.gov/licenses-permits-and-certificates/professions-new-renew-or-update/dietitian-and-nutritionist/rules-progress for information about rules, laws, and certification information. Notifications about rulemaking and other relevant information for the profession are also sent out through GovDelivery. Please sign up for GovDelivery notifications at https://public.govdelivery.com/accounts/WADOH/subscriber/new then select “Health Systems Quality Assurance” then “Health Professions” and select “Dietitian and Nutritionist” to get these notifications. |

Interested individuals are encouraged to monitor the dietitian and nutritionist program website at <https://doh.wa.gov/licenses-permits-and-certificates/professions-new-renew-or-update/dietitian-and-nutritionist/rules-progress> for information about rules, laws, and certification information.

Notifications about rulemaking and other relevant information for the profession are also sent out through GovDelivery. Please sign up for GovDelivery notifications at <https://public.govdelivery.com/accounts/WADOH/subscriber/new> then select “Health Systems Quality Assurance” then “Health Professions” and select “Dietitian and Nutritionist”

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