

Significant Legislative Rule Analysis

Chapter 246-810 WAC,
a Rule Concerning Licensure
for Agency Affiliated
Counselors, Certified
Counselors, Certified Advisers,
and Hypnotherapists

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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.

The Department of Health is proposing amendments to update chapter 246-810 WAC, Licensure for Agency Affiliated Counselors, Certified Counselors, Certified Advisers, and Hypnotherapists. Collectively, these professions are referred to as the “counselor” professions. Over the past few years, several bills have made significant changes to the chapter’s statutory authority, chapter 18.19 RCW. This proposed rulemaking will implement this legislation as well as update other aspects of the chapter. The proposed rules also incorporate updates recommended by the Advisory Committee for Certified Counselors and Hypnotherapists and members of the public.

History

Washington is experiencing a long-term shortage of behavioral health providers. As a 2016 Workforce Training and Education Coordinating Board report explained, “Throughout Washington, the demand for behavioral healthcare is outstripping the availability of services. The challenge of meeting the demand is likely to not only persist, but to become more acute due to difficulties recruiting, educating, training, and retaining a skilled behavioral healthcare workforce...”¹ A few years after this report was written, the shortage was exacerbated by the coronavirus disease 2019 (COVID-19) pandemic, which increased behavioral health care needs and negatively impacted the existing behavioral healthcare education and training system.²

This workforce shortage is particularly apparent in behavioral health agencies, which rely heavily on agency affiliated counselors (AAC).³ The registered AAC credential has served as a general counseling credential, which allows significant flexibility in duties, ranging from interacting incidentally with clients to assessing and diagnosing mental health conditions. The distinguishing factor of the AAC credential is that it is tied to a very specific practice setting, a behavioral health agency or other similar facility. The supervision and structure provided by the facility supports AACs’ professional development and practice. Because so few behavioral health providers accept Medicaid, behavioral health agencies tend to have heavy caseloads, including many clients with serious mental health concerns.

¹ Workforce Training & Education Coordinating Board, *Washington’s Behavioral Health Workforce Assessment: Project Phase 1* (2016), Workforce Training and Education Coordinating Board, pg. 4, <https://wtb.wa.gov/wp-content/uploads/2023/01/Behavioral-Health-Workforce-Analysis-Phase-I-2016.pdf>.

² Workforce Training & Education Coordinating Board, *2022 Behavioral Health Workforce Assessment* (2022), Workforce Training & Education Coordinating Board, pg. 4, https://wtb.wa.gov/wp-content/uploads/2022/12/BHWAC-2022-report_FINAL.pdf.

³ AACs are a behavioral health profession credentialed and regulated by the department under chapter 18.19 RCW and chapter 246-810 WAC. Until recently, unlike most professions, AACs were only required to be employed by a qualified agency or BHA, rather than meeting particular education and experience requirements.

Behavioral health agencies are a critical source of behavioral health services in Washington and often serve clients who receive Medicaid. For some rural or underserved areas, behavioral health agencies may be the primary provider of behavioral healthcare services.⁴ Along with Medicaid-funded behavioral healthcare, behavioral health agency clients may also have access to services that are not funded by Medicaid, such as housing support and supported employment. Behavioral health agencies are the backbone of mental and behavioral health services in Washington and their existence is critical to the overall mental and behavioral wellness of Washington residents.

While there are many different positions within a behavioral health agency, AACs make up the primary cohort of employees since they can perform a wide range of tasks and can engage in counseling, employing therapeutic techniques to assist clients with mental, emotional, or behavioral issues.⁵

Another category of workers in a behavioral health agency is the “mental health professionals” (MHP). Historically, agencies have used this term to describe the providers within the agency who assessed and diagnosed mental health conditions. Behavioral health agencies could designate registered AACs as MHPs if they had a “master’s degree... in counseling or one of the social sciences... and at least two years of experience.”⁶ Importantly for these agencies, this both allowed services provided by an AAC designated as an MHP to be Medicaid-reimbursable and used available staff to meet the behavioral health care needs of their population.

The AAC-MHP designation process, however, created a mismatch between the statutory scope of practice for an AAC and what facility rules and other authority allowed an AAC-MHP to do. Since the statutory conflict continued to create confusion and the workforce was already stretched to its limits, a solution was needed that would both resolve the conflict and allow this work to continue. That solution was the passage of Second Substitute House Bill (2SHB) 1724,⁷ which both created two new AAC credentials and aligned the AAC scope of practice with the statutory definition of MHP.⁸ This legislation is a primary focus of this rulemaking.

Proposed Rulemaking

The proposed amendments to chapter 246-810 WAC reflect the following changes:

⁴ For example, Garfield County only has one BHA. See Find a BHA, *Department of Health*, <https://doh.wa.gov/licenses-permits-and-certificates/facilities-z/behavioral-health-agencies-bha/find-bha> (accessed Aug. 28, 2024).

⁵ RCW 18.19.020 (6).

⁶ WAC 246-341-0515 (4).

⁷ Second Substitute House Bill 1724 (Chapter 425, Laws of 2023), <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/House/1724-S2.SL.pdf?q=20240808113335>.

⁸ RCW 71.05.020.

2SHB 1724 amended many behavioral health profession statutes to remove barriers to licensure. One of the impacted statutes was RCW 18.19.090, which governs minimum credentialing requirements for the counselor professions. This statutory change transformed the AAC profession — which was previously only a registration — into a trio of AAC credentials, including a registration, certification, and license. In addition to creating the infrastructure to administer these new credential types, the department was charged with creating coursework requirements for the certified and licensed AACs. 2SHB 1724 also amended RCW 71.05.020 to update the definition of “MHP” to require the provider to hold one of the specified credentials. Prior to the adoption of 2SHB 1724, registered AACs were often designated as MHPs, even though assessment and diagnosis are beyond their statutory scope of practice, creating a statutory conflict.

Continuing the work of 2SHB 1724, Engrossed Second Substitute House Bill (E2SHB) 2247⁹ expanded the permissible practice settings for AACs from “agencies” as defined in RCW 18.19.020 to include federally qualified health centers (FQHC) beginning in 2028.

Engrossed Second Substitute House Bill (E2SHB) 1504¹⁰ allowed student interns to be credentialed as registered AACs. This legislation was implemented by the department through a policy statement immediately after the bill’s effective date and is now being incorporated into permanent rule.

⁹ Engrossed Second Substitute House Bill 2247 (Chapter 371, Laws of 2024), <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/House/2247-S2.SL.pdf?q=20241010081032>.

¹⁰ Engrossed Second Substitute House Bill 1504 (Chapter 170, Laws of 2021), <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/House/1504-S2.SL.pdf?q=20241010081210>.

SECTION 2

Significant Analysis Requirement

As defined in RCW 34.05.328 (5)(c)(iii)(B), portions of the rule require significant analysis because they establish, alter, or revoke qualifications or standards for the issuance, suspension, or revocation of a license.

The following SA Table 1. identifies rule sections or portions of rule sections that have been determined exempt from significant analysis based on the exemptions provided in RCW 34.05.328(5) (b) and (c).

SA Table 1. Summary of Sections not requiring Significant Analysis

WAC Section and Title	Description of Proposed Changes	Rationale for Exemption Determination
WAC 246-810-010, Definitions	<ul style="list-style-type: none"> • Amends current definitions for clarity and consistency. • Establishes new definitions appropriate for new AAC credentials. 	This section is exempt from analysis as described in RCW 34.05.328(5)(b)(iv) "Rules that only... clarify language of a rule without changing its effect."
WAC 246-810-011, Exempt activities and individuals	<ul style="list-style-type: none"> • Simplifies exemption language by referring to statute. 	RCW 34.05.328(5)(b)(iii) "Rules adopting or incorporating by reference without material change... Washington state statutes."
WAC 246-810-012, Application process	<ul style="list-style-type: none"> • Clarifies application processes. • Establishes student intern AAC application process. • Removes the hypnotherapist application process, which is now established in WAC 246-810-090. 	RCW 34.05.328(5)(b)(iv) "Rules that only... clarify language of a rule without changing its effect;" and RCW 34.05.328(5)(c)(i) "A 'procedural rule' is a rule that adopts, amends, or repeals... (B) any filing or related process requirement for making application to an agency for a license or permit."

<p>WAC 246-810-013, State agency employee credentialing requirements</p>	<ul style="list-style-type: none"> • Removes reference to obsolete credential. • Clarifies language. 	<p>RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”</p>
<p>WAC 246-810-0131, Requirements to report suspected abuse or neglect or a child or vulnerable adult</p>	<ul style="list-style-type: none"> • New section. • Moves requirements from WAC 246-810-040 to this section to improve chapter organization. • Consolidates and clarifies language to better mirror current standards. 	<p>RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”</p>
<p>WAC 246-810-0132, Sexual misconduct regulations</p>	<ul style="list-style-type: none"> • New section. • Moves requirements from WAC 246-810-049 to this section to improve chapter organization. • Clarifies and plain talks language. 	<p>RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”</p>
<p>WAC 246-810-0133, Mandatory reporting</p>	<ul style="list-style-type: none"> • New section. • Consolidates requirements from WACs 246-810-060 through 246-810-066. 	<p>RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”</p>
<p>WAC 246-810-015, Agency affiliated counselor: Scope of practice and credentialing requirements</p>	<ul style="list-style-type: none"> • Clarifies current rule language. 	<p>RCW 34.05.328(5)(c)(i) “A ‘procedural rule’ is a rule that adopts, amends, or repeals... (B) any filing or related process requirement for making application to an agency for a license or permit.”</p>
<p>WAC 246-810-0151, Registered agency affiliated counselor credentialing requirements</p>	<ul style="list-style-type: none"> • New section. • Clarifies a registered AAC applicant must be either an employee at a qualifying agency or a 	<p>RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”</p>

	student intern at a qualifying agency.	
WAC 246-810-016, Agencies, facilities, federally recognized Indian tribes located within the state, or counties that can employ agency affiliated counselors	<ul style="list-style-type: none"> • Clarifies current rule language. • Removes reference to obsolete directory. • Updates reference to obsolete educational board per RCW 28B.77.900. • Updates list of locations to include FQHCs per RCW 18.19.020(1). 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect,” and RCW 34.05.328(5)(b)(v) “Rules the content of which is explicitly and specifically dictated by statute.”
WAC 246-810-017, Process to become a recognized agency or facility	<ul style="list-style-type: none"> • Clarifies rule language on facility forms. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”
WAC 246-810-018, Reporting changes in employment or internship	<ul style="list-style-type: none"> • Updates section title for clarity. • Updates application process to include student interns under 2SHB 1504. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect,” and RCW 34.05.328(5)(b)(v) “Rules the content of which is explicitly and specifically dictated by statute.”
WAC 246-810-019, Co-occurring disorder enhancement specialist eligibility	<ul style="list-style-type: none"> • Makes language clearer and more concise. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”
WAC 246-810-0201, Practice scope and limits for certified counselors	<ul style="list-style-type: none"> • Incorporates reference to RCW 18.19.200 for certified counselor scope of practice and limits. • Clarifies language. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect” and RCW 34.05.328(5)(b)(v) “Rules the content of which is explicitly and specifically dictated by statute.”

WAC 246-810-021, Practice scope and limits for certified advisers	<ul style="list-style-type: none"> Incorporates reference to RCW 18.19.200 for certified adviser scope of practice and limits. 	RCW 34.05.328(5)(b)(v) “Rules the content of which is explicitly and specifically dictated by statute.”
WAC 246-810-0221, Qualifications to become a certified counselor	<ul style="list-style-type: none"> Removes reference to obsolete credential type. Clarifies language. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”
WAC 246-810-023, Qualifications to become a certified adviser	<ul style="list-style-type: none"> Clarifies language. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”
WAC 246-810-025, Supervision and consultation requirements for certified counselors and supervision requirements for certified advisers	<ul style="list-style-type: none"> Clarifies and streamlines current standards by removing duplications. Requirements for supervision agreements and consultation agreements are very similar, but currently listed separately. The proposed rule combines those into a single list to be more concise and clear. The actual requirements for the agreements have not changed. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect.”
WAC 246-810-027, Continuing education requirements for a certified counselor or certified adviser	<ul style="list-style-type: none"> Clarifies and updates language. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-0295, Continuing education credit for preparing and presenting a lecture or course	<ul style="list-style-type: none"> Clarifies language. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-0297, Continuing education documentation for certified	<ul style="list-style-type: none"> Removes outdated reference to specific parts of chapter 246-12 WAC 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without

counselor or certified adviser	and clarifies language.	changing its effect”
WAC 246-810-0298, Suicide assessment training standards	<ul style="list-style-type: none"> • Corrects punctuation to clarify language. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-0299, Health equity training standards	<ul style="list-style-type: none"> • Removes obsolete effective date. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-031, Disclosure statement to be provided to clients by certified counselors and certified advisers	<ul style="list-style-type: none"> • Updates cross-reference to statute. • Clarifies disclosure statements are required for certified counselors and certified advisers only. • Clarifies language throughout. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-032, Failure to provide client disclosure information	<ul style="list-style-type: none"> • Removes reference to repealed WAC. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-040, Requirements to report suspected abuse or neglect of a child or vulnerable adult [Proposed repeal]	<ul style="list-style-type: none"> • Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0131. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-045, Requirements for clients fees paid in advance	<ul style="list-style-type: none"> • Removes redundant information about the disclosure statement. • Removes unnecessary cross-reference. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-049, Sexual misconduct regulations [Proposed repeal]	<ul style="list-style-type: none"> • Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0132. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”

WAC 246-810-060, Mandatory reporting [Proposed repeal]	<ul style="list-style-type: none"> Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0133. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-061, Health care institutions [Proposed repeal]	<ul style="list-style-type: none"> Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0133. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-062, Counselor associations or societies [Proposed repeal]	<ul style="list-style-type: none"> Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0133. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-063, Health care service contractors and disability insurance carriers [Proposed repeal]	<ul style="list-style-type: none"> Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0133. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-064, Professional disability carriers [Proposed repeal]	<ul style="list-style-type: none"> Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0133. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-065, Courts [Proposed repeal]	<ul style="list-style-type: none"> Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0133. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-066, State and federal agencies [Proposed repeal]	<ul style="list-style-type: none"> Recodifies, consolidates, and moves applicable requirements to new WAC 246-810-0133. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-089, Transitional dates for a registered counselor credential [Proposed repeal]	<ul style="list-style-type: none"> Repeals outdated reference to obsolete credential type. 	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect”
WAC 246-810-090, Application requirements for hypnotherapists	<ul style="list-style-type: none"> Adds section for hypnotherapist application process. 	RCW 34.05.328(5)(c)(i) “A ‘procedural rule’ is a rule that adopts, amends, or repeals... (B) any filing or related

		process requirement for making application to an agency for a license or permit.”
WAC 246-810-990 Counselors fees and renewal cycle	<ul style="list-style-type: none">• Clarifies language.• Removes outdated reference to testing company for exam payments.	RCW 34.05.328(5)(b)(iv) “Rules that only... clarify language of a rule without changing its effect,” and RCW 34.05.328(5)(b)(vi) “Rules that... set or adjust fees or rates pursuant to legislative standards...”

SECTION 3

Goals and objectives of the statute that the rule implements.

Authority for the adoption and revision of chapter 246-810 WAC is established in [RCW 18.19.050](#), which grants the department authority to adopt rules to regulate the profession. Additionally, the profession is regulated under the Uniform Disciplinary Act, codified at chapter [18.130 RCW](#). [RCW 18.130.010](#) clarifies that the legislature's intent is to ensure "the adequacy of professional competence and conduct in the healing arts." The department's proposed rule amendments support this intent by supporting the AAC, certified counselor, certified adviser, and hypnotherapist workforce and working to enhance patient safety. Additionally, the department's proposed amendments support the intent of legislation being implemented:

- E2SHB 1504 includes allowing student interns to become AACs as defined by the department.
- 2SHB 1724 reduces barriers to entering and remaining in the behavioral health workforce, in part by creating two new types of AAC credential.
- E2SHB 2247 incorporates items to address behavioral health care provider shortages and to increase access to care by allowing AACs to work in an additional practice setting, FQHCs.

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 current language of chapter 246-810 WAC conflicts with recent statutory amendments to chapter 18.19 RCW. Rulemaking allows the department to align existing rule language with recent changes to statute. Other implementation options short of rulemaking result in a persistent conflict between existing regulations and new statutory requirements. The decision to conduct rulemaking is also consistent with the Washington Administrative Procedures Act,¹¹ which defines a rule as “any agency order, directive, or regulation... Which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession.”¹²

Ultimately establishing these standards through rule will allow the department to protect public safety and to fairly and consistently enforce professional standards for AACs, certified counselors, certified advisers, and hypnotherapists.

¹¹ Chapter 34.05 RCW.

¹² RCW 34.05.010.

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 246-810-0121 Foreign transcript evaluation requirements.

Description: The proposed rule requires applicants with foreign degrees to have their transcripts:

- Translated and evaluated by an organization that is a member of either the National Association of Credential Evaluation Services¹³ or the Association of International Credential Evaluators,¹⁴ and
- Validated for equivalence to an academic program approved by the Council for Higher Education Accreditation or the United States Department of Education.

A credential evaluation service evaluates foreign transcripts for equivalence with the United States education system, for a fee, so the department can accurately understand an applicant's educational background and compare it to Washington professional requirements. This is a newly proposed rule, but the requirement for a transcript evaluation is a longstanding element of the department's credentialing process.

Cost(s): The costs of having a foreign transcript translated and evaluated vary based on which company the applicant chooses and whether translation to English is required.

While rates vary between credential evaluation companies, an applicant may be charged approximately \$225¹⁵ to \$300¹⁶ for credential evaluation. Additionally, the evaluation may take from 3 business days¹⁷ to 4 weeks,¹⁸ resulting in longer total application processing times.

For an applicant whose documents require translation as well, there would be an additional charge and waiting period. Because translation services generally depend on

¹³ NACES Statement of Professional Standards, *National Association of Credential Evaluation Services*, <https://www.naces.org/standards> (accessed Aug. 8, 2024).

¹⁴ Who We Are, *Association of International Credential Evaluators, Inc.*, <https://aice-eval.org/who-we-are/> (accessed Aug. 8, 2024).

¹⁵ Evaluations and Fees – Graduate Admissions, *World Education Services*, <https://www.wes.org/evaluations-and-fees/education/graduate-admissions/> (accessed Jul. 28, 2024).

¹⁶ Fees, *Academic Evaluation Services, Inc.*, <https://aes-edu.org/website/home/fees.cfm> (accessed Jul. 28, 2024).

¹⁷ Services and Fees for Credential Evaluation Reports, *World Education Services*, <https://www.ece.org/ECE/Credential-Evaluations/US-Institutions/Services-and-Fees> (accessed Jul. 28, 2024).

¹⁸ Frequently Asked Questions, *Academic Evaluation Services, Inc.*, <https://aes-edu.org/website/home/faq.cfm#Q10> (accessed Jul. 28, 2024).

the length or complexity of the original document, these costs are more difficult to estimate. The price may range from \$60 per page¹⁹ to a \$75 base fee plus \$2-\$3.50 per course²⁰ to an individualized rate based on the language, length and complexity of the text.²¹ Translation may take from 1 business day²² up to 4 weeks,²³ depending on the company.

Benefit(s): By requiring in rule that foreign educational transcripts be translated and evaluated by a credential evaluation service, the department will provide clarity to potential applicants about the application process. Additionally, having accurate transcript translations and evaluations will enable the department to accurately assess an applicant's eligibility for a credential, issue credentials based on education outside the United States, and ensure that a provider issued a credential based on a foreign education is prepared to practice safely in Washington state.

WAC 246-810-0152 Certified agency affiliated counselor credentialing requirements.

Description: The proposed rule requires an applicant's supervised experience to be obtained:

- Through an internship or practicum that is part of their degree program requirements, or
- After the applicant has completed their degree program.

The proposed rule also clarifies requirements for the department to accept supervised experience obtained out-of-state, in private practice, or prior to January 1, 2025.

The proposed rule also includes language that is exempt from analysis under RCW 34.05.328 (5)(b)(v), as the content is specifically dictated by statute, including the requirements that a certified AAC must:

- Be employed by, or have an offer of employment from, an approved agency or facility;²⁴
- Hold a bachelor's degree in counseling or one of the social sciences;²⁵
- Obtain experience while holding an active credential;²⁶ and

¹⁹ Fast, Certified Translation Services for Educational and Legal Documents, *International Education Evaluations*, <https://myiee.org/translation> (accessed Aug. 13, 2024).

²⁰ Languages and Rates, *Globe Language Services, Inc.*, https://www.globelanguage.com/translation_languages.php (accessed Aug. 13, 2024).

²¹ Evaluations vs. Translations, *Josef Silny & Associates, Inc. International Education Consultants*, https://www.jsilny.org/services.aspx/#translations_achor (accessed Aug. 12, 2024).

²² Fast, Certified Translation Services for Educational and Legal Documents, *International Education Evaluations*, <https://myiee.org/translation> (accessed Aug. 13, 2024).

²³ Frequently Asked Questions, *Academic Evaluation Services, Inc.*, <https://aes-edu.org/website/home/faq.cfm#Q10> (accessed Jul. 28, 2024).

²⁴ RCW 18.19.090 (2).

²⁵ RCW 18.19.090 (3)(a).

²⁶ RCW 18.19.030.

- Have five years of experience in direct treatment of persons with a mental disorder and is gained under the supervision of a mental health professional.²⁷

Cost(s): The department anticipates no probable financial costs associated with this rule for applicants gaining supervised experience in Washington agencies, although requiring supervised experience to be largely completed after an individual's degree program may delay some individuals in completing their supervised experience. The department is unable to estimate financial costs associated with applicants gaining supervised experience in private practices or other states.

For applicants gaining supervised experience at a Washington behavioral health agency or similar facility, supervision is generally a condition of employment, without any cost. In this situation, an applicant would be paid for their work as a registered AAC over the 5 years of required supervised experience. Free supervision is also true for interns or other students temporarily working in an agency as part of their degree program, although they may or may not be paid, depending on the conditions of their internship.

However, because the rule requires that experience be obtained after completion of their degree or through an internship or practicum, some individuals may be unable to count years of work experience that occurred prior to their degree.

For applicants gaining supervised experience in private practice or out-of-state, the department is unable to estimate the cost of supervision due to the number of variables involved. The cost for a given individual to obtain supervised experience would at minimum depend on the state(s) and practice setting(s) they worked in, their supervisor(s), the credential(s) the individual held while obtaining experience, and whether an individual was charged a fee by their supervisor.

Benefit(s): The proposed supervised experience requirements protect patient safety by ensuring a certified AAC is proficient in providing counseling and mental health services.

The proposed requirement for supervised experience to be obtained after completion of the applicant's degree, or through a practicum or internship, ensures a certified AAC applicant had the appropriate educational foundation prior to working with clients. Applicants who obtain some of their supervised experience through a practicum or internship would also be able to take concepts taught in class and quickly apply them to clients in the field, all under qualified supervision.

The proposed rules allowing supervised experience to be gained out-of-state, in private practice, or under someone who was a registered AAC designated as an MHP create flexibility for individual applicants as well as support the behavioral health workforce. These rules maintain standards for supervised experience while creating flexibility for applicants to meet those requirements in a variety of practice settings, including rural and underserved communities and practice settings in other states.

²⁷ RCW 18.19.090 (3)(b).

WAC 246-810-0153 Coursework requirements for certified agency affiliated counselors.

Description: The proposed rule requires an applicant to complete 4 courses from at least 2 out of 3 knowledge areas, taken within their counseling or social science bachelor's degree. These "knowledge areas" categories include: human behavior and counseling, justice in society, and cultural competence. The rule also adds that the department considers an applicant to have met the coursework requirements if they have completed a degree in psychology, social work, or behavioral healthcare.

Some elements of the proposed rule are exempt from analysis under RCW 34.05.328(5)(b)(v), as they are specifically required by statute, including:

- The requirement for a certified AAC to complete a degree in counseling or social sciences and to complete specified coursework;²⁸ and
- The legacy clause, which considers applicants to have met coursework requirements if they meet statutory requirements and apply for certification before July 1, 2027.²⁹

Cost(s): The costs of completing the coursework requirements vary based on whether an individual has already completed a qualifying bachelor's degree and coursework.

For an individual who has already completed a qualifying bachelor degree and coursework, there are no probable costs associated with this proposed rule.

For an undergraduate student already working towards a bachelor's degree in psychology, social work, behavioral healthcare, or another social science, there are no anticipated additional costs associated with completing one of the coursework pathways. All required coursework could be included as part of the cost of an undergraduate degree program. The student would only need to ensure their degree and coursework meets the proposed requirements.

For an individual who does not have a qualifying bachelor degree or whose bachelor degree coursework does not meet proposed requirements, the cost of the proposed rules is the time and money necessary to complete a qualifying bachelor degree program. Because educational programs vary widely, the time and cost required also vary significantly. Based on a review of multiple qualifying bachelor degree programs:

²⁸ RCW 18.19.090 (3)(a).

²⁹ RCW 18.19.090 (6).

- Completing these requirements at an in-person or hybrid educational program may cost approximately \$17,388³⁰ to \$51,892³¹ and may take 4 years or more, depending on whether a student is attending full-time,³² and
- Completing these requirements at an online program may cost approximately \$20,000³³ to \$47,760³⁴ and may take approximately 2 years or more, depending on how quickly the student completes the required courses.

Benefit(s): The benefit of establishing this minimum standard for certified AAC coursework is that it supports every applicant’s ability to practice competently and promotes patient safety.

Social science is a broadly defined term that includes many disciplines that range from cultural anthropology to economics.³⁵ The requirement for coursework to be from three broad categories of social science — human behavior and counseling, justice in society, and cultural competence — keeps the coursework general and flexible enough to honor various social science disciplines that may provide a foundation for counseling. Additionally, requiring coursework from two out of three categories, instead of all three categories, allows for many combinations of coursework to meet the requirements and provides a foundation that will promote competent practice in the future.

WAC 246-810-0154 Licensed agency affiliated counselor credentialing requirements.

Description: The proposed rule requires an applicant’s supervised experience to be obtained:

- Through an internship or practicum that is part of their degree program requirements; or
- After the applicant has completed their degree program.

The proposed rule also clarifies requirements for the department to accept supervised experience obtained out-of-state, in private practice, or prior to January 1, 2025.

³⁰ See Bachelor of Applied Science: Behavioral Healthcare, *Olympic College*, <https://www.olympic.edu/academics/academic-pathways/social-science-service-education/human-services-substance-use-0> (accessed Aug. 9, 2024). See also Tuition & Fees, *Olympic College*, <https://www.olympic.edu/fund-your-education/tuition-fees> (accessed Aug. 9, 2024).

³¹ Undergraduate Tuition Dashboard, *University of Washington*, <https://www.washington.edu/opb/tuition-fees/current-tuition-and-fees-dashboards/undergraduate-tuition-dashboard/> (accessed Aug. 9, 2024).

³² In calculating this estimate, the department assumes that an individual completes an educational program at a public college, university, community college, or technical college in Washington state, with in-state residential status.

³³ Online Degree Programs, *Capella University*, <https://www.capella.edu/lp/home> (accessed Aug. 13, 2024).

³⁴ Tuition Guarantee, *University of Phoenix*, <https://www.phoenix.edu/tuition-financial-aid.html> (accessed Aug. 13, 2024).

³⁵ Social science, *Britannica*, <https://www.britannica.com/topic/social-science> (accessed Aug. 5, 2024).

The proposed rule also includes language that is exempt from analysis under RCW 34.05.328(5)(b)(v), as the content is specifically dictated by statute, including the requirements that a licensed AAC must:

- Be employed by, or have an offer of employment from, an approved agency or facility;³⁶
- Hold an advanced degree in counseling or one of the social sciences;³⁷
- Obtain experience while holding an active credential;³⁸ and
- Have two years of experience in direct treatment of persons with a mental disorder gained under the supervision of an MHP.³⁹

Cost(s): The department anticipates no probable financial costs associated with this rule for applicants gaining supervised experience in Washington agencies, although requiring supervised experience to be largely completed after an individual's degree program may delay some individuals in completing their supervised experience. The department is unable to estimate financial costs associated with applicants gaining supervised experience in private practices or other states.

For applicants gaining supervised experience at a Washington BHA or similar facility, supervision is generally a condition of employment, without any cost. In this situation, an applicant would be paid for their work as an AAC over the two years of required supervised experience. Free supervision is also true for interns or other students temporarily working in an agency as part of their degree program, although they may or may not be paid, depending on the conditions of their internship.

For applicants gaining supervised experience in private practice or out of state, the department is unable to estimate the cost of supervision due to the number of variables involved. The cost for a given individual to obtain supervised experience would at minimum depend on the state(s) and practice setting(s) they worked in, their supervisor(s), the credential(s) the individual held while obtaining experience, and whether an individual was charged a fee by their supervisor.

Benefit(s): The proposed supervised experience requirements protect patient safety by ensuring a licensed AAC is proficient in providing counseling and mental health services.

The proposed requirement for supervised experience to be obtained after completion of their degree, or through a practicum or internship, ensures a licensed AAC applicant had the appropriate educational foundation prior to working with real clients. Applicants

³⁶ RCW 18.19.090 (2).

³⁷ RCW 18.19.090 (4)(a).

³⁸ RCW 18.19.030.

³⁹ RCW 18.19.090 (4)(b).

who obtain some of their supervised experience through a practicum or internship would also be able to take concepts taught in class and quickly apply them to clients in the field, all under qualified supervision.

The proposed rules allowing supervised experience to be gained out of state, in private practice, or under someone who was a registered AAC designated as an MHP create flexibility for individual applicants as well as support the behavioral health workforce. These rules maintain standards for supervised experience, while creating flexibility for applicants to meet requirements in a variety of practice settings, including rural and underserved communities and practice settings in other states.

WAC 246-810-0155 Coursework requirements for licensed agency affiliated counselors.

Description: The proposed rule requires an applicant to complete certain coursework within their counseling or social science advanced degree, including:

- A course(s) in assessment and diagnosis and a counseling course; or
- 5 individual courses out of 22 counseling-related subjects.

Some elements of the proposed rule are exempt from analysis under RCW 34.05.328(5)(b)(v), as they are specifically required by statute, including:

- The requirement for a licensed AAC to complete an advanced degree in counseling or social sciences and to complete specified coursework;⁴⁰ and
- The legacy clause, which considers applicants to have met coursework requirements if, prior to the adoption of these proposed rules, they were designated an MHP under RCW 18.19.090 (6)(a) or they meet statutory requirements and apply for certification before July 1, 2027.⁴¹

Cost(s): The costs of completing the coursework requirements vary based on whether an individual has already completed an advanced degree with qualifying coursework.

For an individual who has already completed an advanced degree with qualifying coursework, there are no probable costs associated with this proposed rule.

For a postgraduate student working towards an advanced degree in counseling or another social science, there are no anticipated additional costs associated with completing one of the coursework pathways. All required coursework could be included as part of the cost of a graduate degree program. The student would only need to ensure their degree and coursework meets the proposed requirements.

⁴⁰ RCW 18.19.090 (4)(a).

⁴¹ RCW 18.19.090 (6)(c).

For an individual who does not have an advanced degree or whose coursework does not meet proposed requirements, the cost of the proposed rules is the time and money necessary to complete a qualifying advanced degree program. Because educational programs vary widely, the time and cost required also vary significantly. Based on a review of some qualifying degree programs:

- Completing these requirements at an in-person program may cost approximately \$4,800⁴² to \$43,195⁴³ for tuition and may take from 1.5 to 4 years or more, depending the type of program;⁴⁴ and
- Completing these requirements at an online program may cost approximately \$42,900⁴⁵ to \$102,875⁴⁶ and may take approximately 2 to 5 years or more, depending on how quickly the student completes the required courses.

Benefit(s): The benefits of establishing this minimum standard for licensed AAC coursework are that it supports an individual's ability to practice competently, while still allowing some flexibility for counselors with non-traditional backgrounds who practice in BHAs.

WAC 246-810-024 Counseling related degrees that meet the requirements for certified counselor and adviser.

Description: The current rule requires that an applicant for certified counselor complete one-third of their coursework in counseling-related subjects and an applicant for certified adviser complete one-quarter of their coursework in counseling-related subjects.

The proposed rule amendment removes the ratio requirements and instead requires that an applicant have a degree from a list of counseling-related fields, including counseling, psychology, social work, behavioral science, psychiatry and psychiatric nursing, special education, and substance use disorders, or other degree determined to be counseling-related under WAC 246-810-0241.

⁴² See Student Admissions, Outcomes, and Other Data, *Washington State University*, pg. 3, <https://psychology.wsu.edu/documents/2024/07/clinical-program-disclosure-data-2023-2024.pdf> (accessed Aug. 19, 2024). See also Clinical Psychology Graduate Program Description, *Washington State University*, <https://www.olympic.edu/fund-your-education/tuition-fees> (accessed Aug. 19, 2024).

⁴³ Costs & Financial Aid, *University of Washington*, <https://www.appliedchildpsych.uw.edu/costs-aid> (accessed Aug. 19, 2024).

⁴⁴ In calculating this estimate, the department assumes that an individual completes an educational program at a public university in Washington state with in-state residential status. Only tuition costs are listed, as the costs of room, board, and transportation may vary significantly between individuals.

⁴⁵ Master of Arts in Counseling, *Waynesburg University*, <https://www.waynesburg.edu/academics/departments/counseling-graduate-and-professional-studies/masters-online/master-arts> (accessed Aug. 20, 2024).

⁴⁶ PhD in Clinical Psychology, *Walden University*, <https://www.waldenu.edu/online-doctoral-programs/phd-in-clinical-psychology#fees> (accessed Aug. 19, 2024).

Other proposed amendments remove subsections (3) and (4), which state that an applicant with an advanced degree in any of the defined counseling-related subjects meets the educational requirements, and consolidate the previous counseling-related subjects list into broader categories.

The proposed rule also includes language that is exempt from analysis, including:

- The requirements for a certified counselor or certified adviser to have a degree in a counseling-related field, exempt under RCW 34.05.328(5)(b)(v), as this is specifically dictated by statute;⁴⁷ and
- Updating the list of counseling-related degrees that may fulfill certification requirements, exempt under RCW 34.05.328(5)(b)(iv), as the rules only clarify language of a rule without changing its effect.

Cost(s): The department anticipates no probable costs associated with these proposed changes.

A bachelor degree and an associate degree in a counseling-related field are statutory requirements for certified counselor and certified adviser, respectively.⁴⁸ Completing a degree in a particular subject or completing particular coursework is not expected to add to the cost of the degree.

Benefit(s): The proposed changes are likely to result in a cost savings of up to \$4,605 or more and significant delays for some applicants and reduce unnecessary barriers to certification.

Removing Current Ratio-Based Coursework Requirements

By removing the current requirement for an applicant to meet a specific ratio of counseling coursework to total coursework, the proposed rules create a cost savings for some applicants, reduce delays, and decrease unnecessary barriers to certification.

The ratio standard causes the required amount of counseling coursework to vary based on how many college courses an individual has taken, requiring some applicants to obtain more counseling coursework than others. See SA Table 2 below.

SA Table 2. Uneven Impact of Current Ratio-Based Coursework Requirements

	Total Credits	Ratio	Required Counseling Credits
Applicant A	180	1/3	60
Applicant B	210	1/3	70
Applicant C	240	1/3	80

⁴⁷ RCW 18.19.090 (8)(a).

⁴⁸ *Id.*

Removing the ratio will likely result in savings for applicants whose coursework included a relatively high proportion of non-counseling work, such as applicants who completed a double major or switched courses of study. For example, under the current rules, an applicant with a bachelor degree and 200 credit hours, including 60 hours of counseling coursework, would need to take an additional 10 credit hours to meet the 1/3 coursework ratio required. Additionally, they would need to delay their application until after they had completed the required coursework. Under the proposed rules, the applicant would not have to take this additional coursework, resulting in a savings of approximately:

- \$1,610⁴⁹ in tuition at a 2-year, public, in-state school, or
- \$4,560⁵⁰ in tuition at a 4-year, public, in-state school.

The true cost and time savings would vary based by individual, based on how much and what type of coursework they would have needed to complete under the current standard.

Additionally, removing the required ratio of coursework will set a clear professional standard, remove barriers to certification, and create the potential for more applicants to join the profession. Under the current rule, the certified counselor and certified adviser professions in Washington are closed to anyone who does not meet the coursework ratio for certification.⁵¹ Enabling applicants to meet education requirements through their degree alone will open the profession to individuals who, for various personal, family, and financial reasons, could not return to school to complete additional counseling coursework.

Impacts on Transcript Requirements

Because the current ratio requirement is based on an applicant's total coursework, it requires an applicant to submit official transcripts for all college-level coursework, even if coursework taken at one or more schools was unrelated to counseling.

A single electronic transcript may cost between \$5⁵² and \$15⁵³ and involve a wait time between 1 day⁵⁴ and 10 days.⁵⁵ Official paper transcripts may cost more and involve

⁴⁹ How Much a College Credit Hour Costs, *LendingTree*, <https://www.lendingtree.com/student/cost-per-credit-hour-study/#:~:text=Based%20on%20published%20tuition%20and,%2C%20out%2Dof%2Dstate%20colleges> (accessed Aug. 20, 2024).

⁵⁰ *Id.*

⁵¹ WAC 246-810-024 (1) and (2).

⁵² See Request a Transcript at Bastyr, *Bastyr University*, <https://bastyr.edu/alumni/request-transcript> (accessed Aug. 19, 2024). See also Transcript Request Form, *Bastyr University*, https://bastyr.edu/sites/default/files/images/pdfs/registrar/Transcript_request_revised.pdf (accessed Aug. 19, 2024).

⁵³ Transcripts, *Western Washington University*, <https://registrar.wvu.edu/transcripts> (accessed Aug. 19, 2024).

⁵⁴ Transcripts, *Seattle University*, <https://www.seattleu.edu/office-of-the-registrar/transcripts/> (accessed Aug. 19, 2024). See also Welcome to Northwest University's Transcript Ordering System, *Northwest University*, <https://www.northwestu.edu/registrar> (accessed Aug. 19, 2024).

⁵⁵ Request a Transcript at Bastyr, *Bastyr University*, <https://bastyr.edu/alumni/request-transcript> (accessed Aug. 19,

longer wait times.⁵⁶ Assuming an individual attended three schools and orders all electronic transcripts in one day, it may cost them from \$15 to \$45 and a wait of up to two weeks. In addition to the cost of the transcripts, ordering a transcript from every school attended may be difficult or time-consuming.⁵⁷

Impacts of Listing Counseling-Related Degrees

The proposed rule amendments would remove coursework requirements and instead only require the statutory minimum, a degree in a counseling-related field.⁵⁸

The proposed list of counseling-related degrees captures established subjects that help prepare students for a career in behavioral health counseling. Because the department will largely be confirming completion of an approved degree, rather than specific coursework, applicants are at less risk of being denied certification based on failure to complete one or two classes.

Additionally, the proposed list creates flexibility for applicants by including “other counseling-related fields as determined by the department under WAC 246-810-0241.” This “other” category allows the department to accept degrees in new or ambiguously-titled counseling-related fields and reduces the risk of the department failing to recognize counseling-related degrees based on new or unfamiliar terminology.

WAC 246-810-0241 Counseling related coursework that meets the requirements for certified counselor and adviser.

Description: The proposed new rule section creates standards for how the department determines whether a counseling-related degree not listed under WAC 246-810-024 (3) is sufficiently related to counseling to qualify the applicant for certification. When a counseling-related degree is not specifically listed in WAC 246-810-024 (3), the department looks at the applicant’s coursework to make a determination:

- A certified counselor applicant must have completed at least 45 quarter college credits or 30 semester college credits from the list of counseling-related subjects; and
- A certified adviser applicant must have completed at least 23 quarter college credits or 15 semester college credits from the list of counseling-related subjects.

Exempt from analysis under RCW 34.05.328(5)(b)(iv), as the amendments only clarify language of a rule without changing its effect, is the list of counseling-related subject

2024).

⁵⁶ Transcripts, *Seattle University*, <https://www.seattleu.edu/office-of-the-registrar/transcripts/> (accessed Aug. 19, 2024).

⁵⁷ Some applications received by the department have included up to eight official transcripts.

⁵⁸ RCW 18.19.090 (8).

areas, which has been transferred from the current WAC 246-810-024 (4), clarified, and updated to reflect modern terminology.

Cost(s): The department anticipates no probable costs associated with these proposed changes.

A counseling-related bachelor degree and a counseling-related associate degree are statutory requirements for a certified counselor and certified adviser, respectively.⁵⁹ Completing particular coursework during the degree program is not expected to add to the cost of the degree.

Benefit(s): The proposed new rule section will provide clarity about how the department determines whether an individual's nontraditional counseling-related degree is "counseling-related" and create flexibility in the types of degrees recognized as counseling-related. Ultimately, this creates a pathway to certification for applicants who would be denied certification under a more rigid system based on traditional behavioral health terminology.

Providing clear standards about how the department determines degrees to be "counseling-related" will both provide clarity to applicants and allow the department to adapt to the changing behavioral health landscape. While the degrees of many applicants are mainstream counseling-related degrees specifically listed under the proposed amendments to WAC 246-810-024, such as psychology or social work, some degrees are less common and may have nonstandard titles, such as art therapy, life and wellness coaching, or positive psychology and consciousness.⁶⁰ By clearly stating how much and what type of coursework is required in a counseling degree not listed in WAC 246-810-024 (3), the department will allow applicants and potential applicants to understand department standards and plan their education accordingly. This also allows for future changes in mental and behavioral health terminology and the evolving public perception and treatment of mental health.

The benefit to requiring 45 quarter or 30 semester college credits for certified counselors and 23 quarter or 15 semester college credits for certified advisers in counseling-related subjects is that it ensures applicants have mastered the necessary counseling-related concepts. This allows applicants with a nonstandard degree to demonstrate they have the skills and knowledge necessary to practice safely and protects patient safety.

⁵⁹ RCW 18.19.090 (8)(a).

⁶⁰ Degree Programs, Maharishi International University, <https://www.miu.edu/academic-programs> (accessed Aug. 21, 2024).

WAC 246-810-026 Qualifications to be a certified counselor supervisor, certified adviser supervisor, or a certified counselor consultant.

Description: The current list of credentials authorized to supervise or consult with a certified counselor or adviser includes most other behavioral health professions and some medical professionals, such as physicians and advanced registered nurse practitioners. The department proposes amending this list to include physician assistants and psychological associates.

A physician assistant is a provider licensed by the Washington Medical Commission to practice medicine under a practice agreement with a physician(s).⁶¹ This includes diagnosing, curing, advising, or prescribing for “any human disease, ailment... pain or other condition, physical or mental.”⁶²

The psychological associate license is a new trainee credential for a student enrolled in a doctoral-level psychology program or an individual completing postdoctoral supervised experience, who has been deemed competent to practice psychology under a licensed supervisor.⁶³ The practice of psychology includes assessment, diagnosis of mental, emotional, and behavioral disorders, and counseling and guidance.⁶⁴ This credential type was recently created,⁶⁵ so rules implementing the statute are in progress⁶⁶ and may be completed by 2026.

Exempt from analysis under RCW 34.05.328(5)(b)(iv), as the amendments only clarify language of a rule without changing its effect, and under RCW 34.05.328(5)(b)(iii), as the amendments adopt or incorporate by reference Washington state statutes, are amendments that clarify rule language, remove a reference to an obsolete profession, and update the title “advanced registered nurse practitioner” to “advanced practice registered nurse.”

Cost(s): The department anticipates no probable costs associated with these proposed changes.

The certified counselor and certified adviser must maintain a relationship with a supervisor or consultant for the duration of their credential; this proposed rule amendment merely expands options available to the certified counselor or certified adviser.

⁶¹ RCW 18.71A.010 (4) and (6).

⁶² RCW 18.71.011 (1).

⁶³ RCW 18.83.105.

⁶⁴ RCW 18.83.010 (1).

⁶⁵ E2SHB 2247 (Chapter 371, Laws of 2024), Sections 2 through 12.

⁶⁶ WSR 24-11-005, filed May 2, 2024.

Benefit(s): The proposed rule expands opportunities for certified counselors and certified advisers to practice with the supervision or consultation of another provider.

Adding physician assistants and psychological associates to the list of possible supervisors for a certified counselor or certified adviser will expand opportunities for certified counselors and certified advisers to practice with support from other provider types. These additional options may be particularly valuable in rural or underserved areas of the state, where it may be difficult to find an eligible provider with enough capacity to serve as a supervisor or consultant in addition to serving their own patients or clients.

Additionally, expanding opportunities for the supervision or consultant relationship may be mutually beneficial, as it would facilitate both providers reaching a broader understanding of behavioral health, the behavioral healthcare system, and treatment methodologies. Ultimately this collaboration may enhance quality of care for clients and patients of both providers.

WAC 246-810-029 Acceptable continuing education courses for certified counselor and certified adviser.

Description: Currently WAC 246-810-029 requires that no more than 20 of the 36 required continuing education (CE) hours may be completed by distance learning. The department proposes removing the limit on distance learning.

The proposed rule also includes clarifications that are exempt from analysis under RCW 34.05.328(5)(b)(iv), as the rules only clarify language of a rule without changing its effect.

Cost(s): The department anticipates no probable costs associated with these proposed changes.

By removing the limits on distance learning, the department would not require providers to take additional training or different trainings, so it should not increase the cost of completing CEs.

Benefit(s): Removing the current limit on distance CEs will allow providers more flexibility in how and when they complete CEs and may create a cost savings.

The proposed rule amendment would increase options for the completion of CEs, potentially resulting in a cost savings, as providers may be able to access less expensive trainings and reduce how often they travel for in-person trainings.

Additionally, the proposed amendment will increase access to CEs for providers who live in rural or underserved areas, who have disabilities, or who have other conditions or circumstances that make it challenging to attend in-person CE.

WAC 246-810-0293 Accredited institutions of higher learning and local, state, national, and international organizations approved for continuing education.

Description: The current rule requires continuing education (CE) to be provided by institutions of higher learning and industry-recognized local, state, national, and international organizations. The proposed rule amends the list of entities approved to provide CE to include four new organizations: the American Counseling Association, American Psychological Association, Association of Social Work Boards, and Substance Abuse and Mental Health Services Administration.

Exempt from analysis under RCW 34.05.328(5)(b)(iv), as the rules only clarify language of a rule without changing its effect, are amendments that clarify rule language and alphabetize listed organizations.

Cost(s): The department anticipates no probable costs associated with these proposed changes.

The proposed rule would not require providers to take additional training or different trainings, so it should not impact the cost or effort of completing CEs.

Benefit(s): The proposed rules would allow more flexibility and expand CE opportunities for certified counselors and advisers.

Amending the rule to include the four listed organizations would expand opportunities for providers to access different types of CE. By incorporating organizations representing other behavioral health professions, such as psychology, social work, and substance use disorder professionals, certified counselors and advisers could enhance their professional knowledge and practice.

Additionally, certified counselors and advisers have expressed frustration with their inability to find appropriate CE from accredited institutions and the financial burden of CE. By opening additional avenues for CE from prominent national behavioral health professional and government organizations, the proposed rule will likely increase access to CE and may increase access to lower cost CE.

WAC 246-810-035 Record requirements.

Description: The current rule sets record retention requirements for all counselors within the chapter. The proposed rule amendment increases the record retention period from 5 to 6 years. It also requires that records for minor clients be maintained until 6 years after their 21st birthday.

Cost(s): For registered, certified, and licensed AACs, the department anticipates no probable costs associated with the proposed rules.

For certified counselors, certified advisers, and hypnotherapists, there may be a financial cost associated with the proposed changes, but the department is unable to estimate them due to variability between individual providers.

First, a provider's credential type impacts the likely cost of this rule.

- For registered, certified, and licensed AACs, who represent approximately 92% of the providers credentialed under this chapter, the proposed rule brings professional record retention requirements in line with behavioral health agency regulations.⁶⁷ Because AACs are employees at these facilities and are already following the proposed record retention requirements, no probable costs are anticipated.
- For certified counselors, certified advisers, and hypnotherapists, costs of longer record retention requirements may be impacted by a provider's storage system preferences, the age of a provider's client population, and practice size.

The two main methods of record retention are physical file storage and electronic file storage:

- Physical file storage: These costs vary widely, based on whether the additional records impacted by this rule amendment can be filed in the provider's existing storage space (such as a file room in their clinical setting), or must be warehoused in a medical records storage facility. For on-site storage, costs may be as low as \$37.40⁶⁸ for additional banker boxes for file storage. For off-site storage, provided by a medical records storage company, costs are estimated to be between \$0.50⁶⁹ and \$15⁷⁰ per box stored, per month.
- Electronic file storage: These costs are difficult to estimate, because electronic file storage tends to be bundled with other services or equipment, often including scanning services, physical document destruction, software, equipment, and electronic file storage. If a provider already uses such an electronic storage system, the cost of retaining the additional records impacted by this rule amendment would be less than if this amendment prompted a provider to newly switch to an electronic storage system.

Additionally, costs for storing files vary widely based on how many files are being stored. The number of files impacted depends on an individual provider's practice size and client load. A provider with a larger practice would likely have more files impacted

⁶⁷ WAC 246-341-0425 (4) and (5).

⁶⁸ Medical Records Storage Boxes, *DEW Filing & Storage*, <https://www.thefilestore.com/medical-filing/medical-records-storage-boxes> (accessed Sept. 16, 2024).

⁶⁹ Document Storage in Seattle, WA, *Record Nations*, <https://www.recordnations.com/seattle/document-storage/#:~:text=Off%20site%20records%20storage%20pricing,cents%20per%20box%2C%20per%20month> (accessed Sept. 16, 2024).

⁷⁰ How to Reduce Operating Costs by Limiting Off-Site Storage Use, *EY*, https://www.ey.com/en_us/insights/forensic-integrity-services/reduce-operating-costs-by-limiting-off-site-storage-use (accessed Sept. 16, 2024).

by this rule change. A provider’s client population would also impact the number of files with increased retention requirements, as some providers may serve primarily adults clients, whose records are minimally impacted by this rule amendment, while others may primarily serve minors, whose records would potentially be subject to a much longer retention period. These factors are highly individual, based on a provider’s preference and expertise, and may change over time.

Benefit(s): The benefits of increasing record retention requirements include creating consistent standards and protecting the rights of minors.

By extending the record requirements from 5 years to 6 years, the department will align professional rules for counselors with both behavioral health agency record retention requirements⁷¹ and Health Insurance Portability and Accountability Act (HIPAA) retention requirements for some documentation.⁷² Aligning counselor record retention standards with other frequently applicable retention standards will hold counselors to a uniform standard, regardless of practice setting, and reduce confusion.

Additionally, by proposing a record retention rule specific to minor clients, the department is not only aligning with behavioral health agency requirements, but also creating a window of opportunity for young adults to assess the future direction of their behavioral healthcare and request their medical records if appropriate.

SA Table 2. Summary of Section 5 probable cost(s) and benefit(s)

WAC Section and Title	Probable Cost(s)	Probable Benefit(s)
WAC 246-810-0121 Foreign transcript evaluation requirements.	\$225 - \$300 and up to 4 weeks for a foreign transcript evaluation, plus \$60 or more, depending on the need for translation.	Allows the department to assess and issue credentials to applicants based on foreign education.
WAC 246-810-0152 Certified agency affiliated counselor credentialing requirements.	No probable costs.	Increases provider competence and promotes patient safety.
WAC 246-810-0153 Coursework requirements for certified agency affiliated counselors.	\$0 - \$51,892 and two years or more to obtain a qualifying bachelor degree.	Complies with statute, increases provider competence, and promotes patient safety.

⁷¹ WAC 246-341-0425 (4) and (5).

⁷² 45 CFR §§ 164.316 and 530.

WAC 246-810-0154 Licensed agency affiliated counselor credentialing requirements.	No probable costs.	Increases provider competence and promotes patient safety.
WAC 246-810-0155 Coursework requirements for licensed agency affiliated counselors.	\$0 - \$102,875 and 1.5 years or more to obtain a qualifying advanced degree.	Complies with statute, increases provider competence, and promotes patient safety.
WAC 246-810-024 Counseling related degrees that meets the requirements for certified counselor and adviser.	No probable costs.	Savings of up to \$4,605 or more and delays.
WAC 246-810-0241 Counseling related coursework that meets the requirements for certified counselor and adviser.	No probable costs.	Provides clarity about eligible degree types.
WAC 246-810-026 Qualifications to be a certified counselor supervisor, certified adviser supervisor, or a certified counselor consultant.	No probable costs.	Supports ability of providers to practice under supervision or with consultation.
WAC 246-810-029 Acceptable continuing education courses for certified counselor and certified adviser.	No probable costs.	Increases flexibility for providers obtaining CE trainings.
WAC 246-810-0293 Accredited institutions of higher learning and local, state, national, and international organizations approved for continuing education.	No probable costs.	Increases flexibility for providers obtaining CE trainings.
WAC 246-810-035 Record requirements.	No probable costs for AACs. Unidentified costs for certified counselors, certified advisers, and hypnotherapists.	Reducing confusion and protecting medical records of minors.

Determination

Probable Benefits greater than Probable Costs

It was determined that the probable benefits (providing clarity for providers, increasing provider competence and patient safety, increasing options for providers, complying with statutory requirements, cost savings of up to \$4,605 or more, and providing clarity about professional requirements) of the proposed rule are greater than the probable costs of (up to \$300 for a transcript evaluation, up to \$51,892 for a bachelor degree with qualifying coursework, and up to \$102,875 for an advanced degree with qualifying coursework).

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.

2SHB 1724 made several immediate changes impacting behavioral health agencies, including amending the definition of MHP and creating two new AAC credentials. Because 2SHB 1724's amendments to the MHP definition and AAC credentials went into effect immediately and were designated as necessary for the immediate preservation of the public health, safety, or general welfare, the department implemented these changes by emergency rule. These emergency rules clarified the application process and set fees for the new credentials but did not establish any coursework requirements beyond what is required by statute. The emergency rules⁷³ have been continued throughout the course of this permanent rule project and will continue to be renewed until permanent rules are adopted.

In the spring and summer of 2024, to begin drafting the permanent rules, the department held a total of 7 workshops intended to invite discussion and feedback from interested parties, including behavioral health agencies, behavioral health professionals, and other members of the public. These workshops resulted in many conversations and suggestions to develop the rule language for the AAC, certified counselor, certified adviser, and hypnotherapist professions.

WAC 246-810-0121 Foreign transcript evaluation requirements.

Description: The proposed rule requires applicants with foreign degrees to have their transcripts translated and evaluated to determine equivalence to an academic program approved by one of two organizations, the Council for Higher Education Accreditation or the United States Department of Education.

Alternatives Considered:

The department historically has not had a rule section to address foreign transcripts. Because the department lacks the resources to independently translate and evaluate foreign transcripts, however, the department's longstanding process is to request applicants to have any foreign transcripts translated and evaluated by an outside service and to have those documents submitted directly to the department. This documentation allows the department to accurately compare an applicant's foreign

⁷³ The department initially adopted emergency rules under WSR 23-16-031, filed on July 21, 2023 and continued them under WSR 23-23-136, filed November 17, 2023; WSR 24-07-062, filed March 15, 2024; WSR 24-07-100, filed March 20, 2024; and WSR 24-15-077, filed July 18, 2024.

education to Washington's requirements for that credential. The requirement to obtain translations and transcript evaluations has never been reflected in rule, though, which can sometimes result in confusion and delays.

Through rules workshops and written comments, the department has received feedback opposing these proposed requirements because of the burden it would place on applicants with foreign education, both in terms of the cost and time necessary to have the evaluation completed. Washington statute, however, sets credential requirements based on the United States' educational degree system. Short of requiring applicants to obtain translations and transcript evaluations, the department has two options:

- Not requiring transcript evaluations at all: Because Washington statute sets requirements for credentials using the United State's educational degree system, without an evaluation of the U.S. equivalent, the department would likely be unable to honor any foreign education. In this case, applicants with a foreign application would likely have to repeat their education in the United States, at an accredited college or university, consistent with chapter 18.19 RCW.
- Incorporating transcript evaluations as part of the department's credentialing process: Instead of requiring an applicant to obtain a transcript evaluation before applying, the department would add the transcript evaluation to the department's application review process. In this scenario, the department itself would submit the original transcripts to a credential evaluation service.⁷⁴ The cost for those services would be added to the cost of administering the profession, likely resulting in an increase in credential fees for all providers credentialed under chapter 246-810 WAC.⁷⁵ The wait for the credential evaluation process to be completed would prolong the application review process for applicants with foreign transcripts and may increase overall processing time.

While the department considered these options, neither seemed to be viable. The first would prevent individuals with foreign educations from becoming credentialed in Washington. This both fails to allow qualified applicants to be credentialed consistent with their education and decreases the chance that members of the public can access care from a provider with a shared language or cultural background. The second option would result in the same costs and delays, but decrease the amount of control an individual applicant has over the process.

After careful consideration of the costs and benefits, the department proposes requiring foreign transcript evaluations to be obtained by the applicant. By creating a standard

⁷⁴ The possibility of the department hiring sufficient staff with the expertise necessary to conduct in-house translations and foreign transcript evaluations is beyond the scope of this rulemaking and therefore is not considered here.

⁷⁵ RCW 43.70.250 requires that each profession be self-supporting, so that credential fees paid by the profession cover the costs of administering the profession. If the department increases program administration costs, fees will also increase.

process for applicants with a foreign official transcript, the department intends to clarify the application process as much as possible and minimize confusion and delays.

WAC 246-810-0152 Certified agency affiliated counselor credentialing requirements.

Description: The proposed rule requires an applicant's supervised experience be obtained:

- Through an internship or practicum that is part of their degree program requirements, or
- After the applicant has completed their degree program.

The proposed rule also clarifies that qualifying supervised experience obtained out-of-state, in private practice, or prior to January 1, 2025, must have been provided by a mental health professional.

Alternatives Considered:

Throughout the rules workshops, the proposed rules for supervised experience generated much discussion from interested parties and applicants, resulting in many versions before the proposed requirements.

The proposed requirement for supervised experience to begin after the degree:

Some commenters indicated that any supervised experience should be accepted, regardless of when it was obtained. Due to the current strain on the behavioral health workforce, this limitation could restrict the number of applicants to the profession. Some also stated that experience in the field inspired them to return to school. By requiring supervised experience occur after the applicant's degree is obtained, the department would discount time already spent within an approved agency and could discourage people from progressing in their career.

On the other hand, waiting until the applicant's degree is complete before beginning supervised experience would allow applicants to practice the knowledge learned through their degree program. Additionally, it would ensure an equal standard of experience for all applicants and a higher standard of care for patients.

Ultimately, the department determined that supervised experience must begin accruing after an applicant's degree is completed. Because AACs may be performing a wide range of duties within an agency, employment as an AAC by itself may not be sufficient to cultivate the competencies necessary for practice as a certified AAC. By requiring a registered AAC to accrue 5 years of supervised experience after the applicant's degree is awarded, the department hopes to promote provider competency and a high quality of patient care.

The proposed requirement for supervised experience under a credential:

Some commenters were in favor of not requiring a credential to obtain supervised experience because of the potential impact on out-of-state applicants. Because Washington state is the only state with an AAC credential and other states do not offer an equivalent credential, applicants who obtained experience out-of-state, uncredentialed, would be at a disadvantage.

However, requiring that supervised experience take place under a credential will allow the department to confirm that an applicant was qualified to provide “direct treatment persons with a mental disorder,” as required by the statute. Without a credential, the department would be unable to confirm what type of treatment or counseling the individual was providing.

Because the department needs to confirm that the applicant was qualified and authorized to provide counseling services in order to protect patient safety, the proposed draft requires that all supervised experienced be obtained under a credential or, for students, during an internship or practicum.

National certification:

Additionally, some interested parties supported allowing a national certification to qualify in lieu of an out-of-state counseling credential. Individuals who obtain a national certification must pass an exam and complete annual CEUs, similar to requirements for many state credentials. A national certification, however, does not necessarily require their members to have or obtain supervised experience and does not involve the same level of accountability and oversight as a state credential provides. To support provider competence and patient safety, the department has decided to require any out-of-state supervised experience to be obtained under a state-issued credential.

WAC 246-810-0153 Coursework requirements for certified agency affiliated counselors.

Description: The proposed rule requires an applicant to complete 4 courses from at least 2 out of 3 course categories, taken within their counseling or social science bachelor’s degree. These “knowledge areas” categories include: human behavior and counseling, justice in society, and cultural competence. The rule also adds that the department considers an applicant to have met the coursework requirements if they have completed a degree in psychology, social work, or behavioral healthcare.

Alternatives Considered:

During the workshops, coursework requirements prompted lots of discussion and comments from interested parties, providers, and potential applicants, resulting in many alternate frameworks before determining the proposed coursework requirements for certified AACs.

Initial Draft

The initial draft language included three different options for meeting coursework requirements: one was based on degree type; one that required 2 courses each in psychology, counseling, and behavior; and one that required applicants to have a certain number of credits in specified topics including human behavior and counseling, justice and society, and cultural competency and diversity. Interested parties raised concerns that the second pathway was not a realistic option for many applicants with a social science degree. Because of the diversity of the social sciences, it's likely that many applicants would not complete coursework from all three fields. After discussion, the language was updated to combined the best features of the second and third options, while retaining language that considers applicants with certain degree types to have met the coursework requirements.

Number of Courses

The number of courses necessary also evolved over the span of workshops held. Initial drafts proposed either a specified number of courses or a specified number of college credits. The benefit to requiring total courses instead of credits is that it creates a simpler standard to understand and enforce. Requiring four total courses strikes a balance between preparing individuals for safe practice and establishing realistic standards that applicants with a social science education.

Post-Degree Coursework

Additionally, early drafts allowed applicants to meet the coursework requirements by completing additional courses, separate from a degree program. Many interested parties (and the department) were in support of this option because it would allow an easier path to certification for many applicants; an applicant could supplement their existing bachelor degree with additional coursework, instead of needing to complete an entire new degree program. Ultimately, however, the department needed to align the proposed rule with the law, which requires completion of a “bachelor’s degree in counseling or one of the social sciences from an accredited college or university **which includes** [emphasis added] coursework specified” by the department.⁷⁶ As a result, the proposed rule language requires that coursework be completed within a degree program, not afterward.

WAC 246-810-0154 Licensed agency affiliated counselor credentialing requirements.

Description: The proposed rule requires an applicant’s supervised experience be obtained:

- Through an internship or practicum that is part of their degree program requirements; or

⁷⁶ RCW 18.19.090 (3)(a).

- After the applicant has completed their degree program.

The rule also sets requirements for the department to accept supervised experience obtained out of state, in private practice, or prior to January 1, 2025.

Alternatives Considered:

The department received lots of feedback from interested parties about supervised experience requirements for licensed AACs.

Some suggested that the department accept supervised experience that was obtained prior to completion of the advanced degree. While the department did consider that possibility, the department ultimately decided to require that supervised experience begin after the applicant's advanced degree is completed. This would allow applicants to practice the knowledge learned through their degree program, consistent with requirements for certified AAC supervised experience and supervised experience requirements for other similarly qualified behavioral health professions.⁷⁷ Additionally, it would ensure an equal standard of experience for all applicants and provide a higher standard of care for patients.

Additionally, some interested parties supported allowing a national certification to qualify as a credential to practice counseling in lieu of an out-of-state counseling credential. Individuals who obtain a national certification must pass an exam and complete annual CE trainings, similar to requirements for many state credentials. A national certification, however, does not necessarily require their members have or obtain supervised experience and does not involve the same level of accountability and oversight as a state credential provides. To support provider competence and patient safety, the department has decided to require any out-of-state supervised experience be obtained under a state-issued credential.

WAC 246-810-0155 Coursework requirements for licensed agency affiliated counselors.

Description: The proposed rule requires an applicant to complete certain coursework within their counseling or social science advanced degree, including:

- A course(s) in assessment and diagnosis and a counseling course; or
- 5 individual courses out of 22 counseling-related subjects.

Alternatives Considered:

The department's initial draft was based on the "content areas" listed in the historical MHP designation form⁷⁸ offered through Department of Social and Health Services,

⁷⁷ See chapter 246-809 WAC.

⁷⁸ *Mental Health Professional (MHP) and Mental Health Specialist (MHS) Request for Acknowledgment and Documentation of Qualifications*, Department of Social & Health Services, [MHP and MHS Request Form](#).

Division of Behavioral Health and Recovery. By setting current standards consistent with historical standards, the department will ensure that the quality of licensed AAC (formerly MHP) education is the same, whether the applicant graduated 20 years ago or 3 years ago.

The MHP form, though, includes terminology that is dated or not aligned with current behavioral health curricula. To update the list, the department first updated some older terminology, such as changing “chemical abuse” to “substance use disorders.”

Later, during rules workshops, many interested parties expressed that the list should also be updated to reflect courses currently offered within a master-level counseling program. To review current counseling scholarship and curricula, the department looked at licensure requirements of other states and curriculum of educational institutions. This research yielded newer subjects like group dynamics,⁷⁹ social and cultural foundations,⁸⁰ learning disabilities, treating special populations,⁸¹ and sexuality and lifestyle choices.⁸² These subjects go beyond the original MHP form to address newer, evolving fields of counseling. In addition to adding new options to the list of counseling-related subjects, these changes will provide clarity for future applicants.

WAC 246-810-024 Counseling related degrees that meet the requirements for certified counselor and adviser.

Description: The current rule requires that an applicant for certified counselor complete one-third of their coursework in counseling-related subjects and an applicant for certified adviser complete one-quarter of their coursework in counseling-related subjects.

The proposed rule amendment removes the ratio requirements and requires that an applicant have a degree from a list of counseling-related fields, including counseling, psychology, social work, behavioral science, psychiatry and psychiatric nursing, special education, and substance use disorders, or other degree determined to be counseling-related under WAC 246-810-0241.

Alternatives Considered:

Throughout drafts and discussions with interested parties about this rule, the department has attempted to correct some longstanding challenges with this rule and its impact on the certified counselor and certified adviser professions.

⁷⁹ *LPC Graduate Program Requirements*, Oregon Board of Licensed Professional Counselors and Therapists, https://www.oregon.gov/oblpc/Pages/LPC_Courses.aspx (accessed Jul. 31, 2024)

⁸⁰ *Id.* See also *National Certified Counselor (NCC)*, National Board for Certified Counselors, <https://nbcc.org/certification/ncc> (accessed Jul. 31, 2024).

⁸¹ *National Clinical Mental Health Counseling Exam*, Boston Graduate School of Psychoanalysis, <https://bgsp.edu/academics/degree-programs/m-a-in-mental-health-counseling/national-clinical-mental-health-counseling-exam/> (accessed Jul. 31, 2024).

⁸² *Id.*

Over the years, the number of certified counselors and certified advisers has sharply decreased.⁸³ While a considerable number of candidates apply for certification as a certified counselor or adviser and fulfill the counseling-related degree component of the educational prerequisites, a significant number fail to meet the specified coursework ratio. Many times unsuccessful candidates fall short by three courses or fewer. Among these candidates, some have pursued a minor in an unrelated field, undertaken additional courses mandated by a scholarship obligation, or switched majors or degree programs. Because of the coursework ratio requirements, these extra courses may prevent an applicant from becoming credentialed even if they have completed more counseling coursework than a successful applicant who had fewer total courses.

Instead of removing the coursework ratio requirement entirely, the department's initial draft added two more pathways to meet the counseling-related coursework requirements: one based on the number of courses and the other based on the number of college credits. While the intent was to provide additional options for applicants to meet the credentialing requirements, it became apparent that the new options overlapped and caused confusion.

To provide a simple, clear standard that protects patient safety, the department eventually removed the coursework requirements entirely.

Now, the proposed draft requires that an applicant have a counseling-related degree, consistent with statutory requirements⁸⁴ and the current rule language.⁸⁵ To provide clarity, the department has proposed language recognizing seven common counseling-related degree types as "counseling-related." Additionally, the department is proposing a new rule section, WAC 246-810-0241, that clarifies how new or ambiguously-titled degrees, like wellness coaching or art therapy, may be recognized by the department as "counseling-related."

WAC 246-810-0241 Counseling related coursework that meets the requirements for certified counselor and adviser.

Description: The proposed new rule section creates standards for how the department determines whether a degree not specifically listed in WAC 246-810-024 (3) is "counseling-related."

- A certified counselor applicant's degree must include at least 45 quarter college credits or 30 semester college credits from the list of counseling-related subjects; and

⁸³ From 2013 to 2023, the number of certified counselors decreased from 630 to 353. Over the same period, the number of certified advisers decreased from 3 to 1. See Sherry Thomas, *2021-23 Uniform Disciplinary Act (UDA) Report* (2023), Department of Health, pg. 26, <https://doh.wa.gov/sites/default/files/2024-03/631093-UDAReport2021-2023.pdf>.

⁸⁴ RCW 18.19.090 (8).

⁸⁵ See WAC 246-810-0221(2)(a) and WAC 246-810-023(1).

- A certified adviser applicant's degree must include at least 23 quarter college credits or 15 semester college credits from the list of counseling-related subjects.

Alternatives Considered: The department considered not creating this new rule section to clarify the meaning of "counseling-related" degrees. The degree types listed in proposed amendments to WAC 246-810-024 include common and well-established degree types, which would likely admit most applicants with counseling-related degrees.

However, the department recognizes that evolving trends in the behavioral health workforce and academia are likely to result in new behavioral health degree programs. For example, several colleges and universities in Washington have relatively recently begun offering bachelor degrees in "applied behavioral healthcare." Programs like these will prepare students for a career in counseling, so it is important for the department to have a mechanism for recognizing them. To ensure future applicants are not denied certification based on degree title alone, a new WAC section was necessary to set coursework standards for other, potentially qualifying degrees.

The requirement for certified counselor applicants to complete at least 45 quarter college credits or 30 semester college credits was set based on coursework minimums for other bachelor-level behavioral health professions, such as Substance Use Disorder Providers⁸⁶ and Behavioral Health Support Specialists.⁸⁷

Because an associate degree generally takes half as long as a bachelor degree, the certified adviser coursework requirements were set at half the number of college credits required for certified counselors.

The list of eligible coursework was based on the current language of WAC 246-810-024 (4), which lists subject areas in which an advanced degree will qualify an applicant for certification. By repurposing and updating this list, the department is using a long-established standard for counseling-related education and using it to determine counseling-related coursework.

WAC 246-810-026 Qualifications to be a certified counselor supervisor, certified adviser supervisor, or a certified counselor consultant.

Description: The department proposes amending the list of credentials in counseling-related fields to include physician assistants and psychological associates. The current list of credentials able to provide supervision includes the licensed counselors, certified counselors and hypnotherapists, psychologists, substance use disorder professionals,

⁸⁶ WAC 246-811-030(2).

⁸⁷ WSR 24-15-131, accessible online at: <https://doh.wa.gov/sites/default/files/2024-07/WSR24-15-131Combined.pdf>. See proposed WAC 246-821-100(3).

sex offender treatment providers and affiliates, allopathic physicians, osteopathic physicians, advanced registered nurse practitioners, and naturopathic physicians.

Alternatives Considered: The department considered maintaining the list of qualified supervisors and consultants as it is; 14 credential types have already been deemed counseling-related and are available for certified counselors and certified advisers to work with. Given the low number of certified counselors and certified advisers, access to those credential types may be sufficient.

However, because the modern landscape of mental and behavioral health has significantly changed since this chapter was originally drafted and because there continues to be a shortage of behavioral healthcare providers, the department proposes adding physician assistants and psychological associates to the list of approved providers. Both of these professions have assessment and diagnosis in their scope of practice, which qualifies them to assess and diagnose behavioral health conditions.⁸⁸ Additionally, both work under the supervision of another provider, which will ensure they have the resources to protect patient safety, even in circumstances that exceed their personal experience.

In rural or underserved areas, certified counselors and certified advisers may be critical sources of behavioral healthcare, but may lack access to an available supervisor or consultant. By expanding their options, the department can enhance their ability to find an appropriate supervisor or consultant, especially in underserved areas of the state.

WAC 246-810-029, Acceptable continuing education courses for certified counselor and certified adviser.

Description: Current rule language requires 36 hours of CE every two years,⁸⁹ 20 of which may be distance CE. The proposed rule will remove the limit on the number of distance CEs that may be completed.

Alternatives considered:

The department considered keeping the current standard or continuing to require some CEs be obtained in person. However, the department could not determine that in-person CE is more beneficial to providers.

During the COVID-19 pandemic, it was not a safe practice to have in-person CEs, so many in-person events were canceled or converted to distance learning opportunities. Because of this, the department used its enforcement discretion to allow providers to complete more than 20 hours of distance learning per CE cycle. For approximately two years, providers relied primarily on distance learning to fulfill CE requirements. Once it was safe to return to in-person training, the department analyzed

⁸⁸ See RCW 18.71.011(1) and RCW 18.83.010 (1).

⁸⁹ WAC 246-810-027(1).

rates of discipline during the pandemic. The evidence did not show a decreased standard of care during the years where distance learning was primarily used. Additionally, providers expressed that, because of distance learning opportunities, they were able to access trainings in a greater variety of subjects.

The department decided to remove the limit on distance learning due to lack of evidence that in-person training protects patient safety more than distance learning, and provider feedback that distance learning increases access to training.

WAC 246-810-0293 Accredited institutions of higher learning and local, state, national, and international organizations approved for continuing education.

Description: The current rule requires CE to be provided by institutions of higher learning and industry-recognized local, state, national, and international organizations. The proposed rule amendments add four new organizations to the list of entities approved to provide CE: the American Counseling Association,⁹⁰ American Psychological Association,⁹¹ Association of Social Work Boards,⁹² and Substance Abuse and Mental Health Services Administration.⁹³

Alternatives Considered: The department initially intended to only implement a correction to the list of approved CE organizations, to reflect one association's name change.

However, certified counselors and certified advisers expressed frustration with the limitations of the current list and reported difficulty finding appropriate and affordable trainings. The organizations already represented are respected in the public health arena, but many lacked a robust and extensive CE directory available for certified counselors and certified advisers.

Based on this feedback, the department decided to expand the list of approved CE providers to include respected national professional and government organizations from the fields of counseling, psychology, social work, and substance use disorder counseling. The addition of these organizations will provide certified counselors and certified advisers with more resources for finding approved CE courses in a range of relevant topics.

WAC 246-810-035 Record requirements.

⁹⁰ *We are the Home for Professional Counseling*, American Counseling Association, <https://www.counseling.org/> (accessed Jul. 9, 2024).

⁹¹ *American Psychological Association*, APA, <https://www.apa.org/> (accessed Jul. 9, 2024).

⁹² *Association of Social Work Boards*, ASWB, <https://www.aswb.org/> (accessed Jul.9, 2024).

⁹³ *Substance Abuse and Mental Health Services Administration*, SAMHSA, <https://www.samhsa.gov/> (accessed Jul.9, 2024).

Description: The current rule sets record retention requirements for all counselors within the chapter. The proposed rule amendment increases the record retention period from 5 to 6 years. It also requires that records for minor clients be maintained until 6 years after their 21st birthday.

Alternatives considered: When originally reviewing the chapter, the department considered maintaining the current record retention requirement of 5 years.

Increasing record retention requirements to 6 years however, had been discussed by the Certified Counselors and Hypnotherapists Advisory Committee. After researching other regulations, the department understood this change had the potential to benefit both providers and patients. The vast majority of providers practicing under chapter 246-810 WAC are AACs,⁹⁴ many of whom work at facilities that require a 6-year record retention period.⁹⁵ Even those who do not work at those facilities may need to follow HIPAA's 6-year record retention period⁹⁶ for some documentation. Increasing the chapter's record retention requirement to 6 years has the benefit of aligning all these standards and reducing confusion.

Additionally, while researching document retention requirements, the department found that other standards specifically addressed the medical records of minor patients, while chapter 246-810 WAC did not. Because the department finds such a rule likely to benefit minor patients while imposing minimal burden on providers, the department is also proposing a requirement to keep the records of minor patients until 6 years after their 21st birthday.

⁹⁴ In the 2021-2023 biennium, there were 10,680 agency affiliated counselors, 353 certified counselors, and 1 certified adviser. See Sherry Thomas, *2021-23 Uniform Disciplinary Act (UDA) Report (2023)*, Department of Health, pg. 7, <https://doh.wa.gov/sites/default/files/2024-03/631093-UDAReport2021-2023.pdf>.

⁹⁵ WAC 246-341-0425 (4) and (5).

⁹⁶ 45 CFR §§ 164.316 and 530.

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 rule does not require those to whom it applies to take 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 rule does not impose more stringent performance requirements on private entities than on public entities.

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 rule does not differ from any applicable federal regulation or statute.

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.