Significant Legislative Rule Analysis

Proposed chapter 246-805 WAC, Applied Behavior Analysis, creating a new chapter to implement a program for certified and licensed applied behavior analysis professionals, including licensing, certification and practice standards and credentialing fees.

November 22, 2016
SECTON 1:
Describe the proposed rule, including a brief history of the issue, and explain why
the proposed rule is needed.

The Department of Health (department) is proposing a new chapter in rule to establish
three new health care credentials: licensed behavior analyst (LBA), licensed assistant
behavior analyst (LABA), and certified behavior technician (CBT). The proposed rules set:

- Minimum qualifications for licensure of behavior analysts and assistant behavior
  analysts;
- Minimum qualifications for certification of behavior technicians;
- Supervised experience requirements for assistant behavior analysts;
- Requirements for approved behavior technician training programs;
- Allowable tasks behavior technicians are authorized to perform;
- Supervision standards for behavior technicians and
- Fees for each credential.

Substitute Senate Bill (SSB) 5488, enacted in 2015 and codified as chapter 18.380
RCW, establishes the Applied Behavior Analysis (ABA) program. SSB 5488 grants the
secretary rulemaking authority to set licensing and practice standards for LBAs, LABAs,
and CBTs. As of July 1, 2017, chapter 18.830 prohibits the practice of ABA without
holding the necessary credential.

SSB 5488 closely parallels the department’s recommendations in a 2014 sunrise review
on this issue. A sunrise review is an evaluation of a proposal to change the laws
regulating health professions in Washington. Unregulated health profession must go
through a sunrise review by the department to determine whether there is a need to
require a state credential. The department evaluates whether the profession meets
criteria in the law that show unregulated practice can clearly harm or endanger the
public. The department makes recommendations to the legislature based on these
criteria.

The 2014 sunrise review was requested by the legislature to review a proposal from the
Washington Association for Behavior Analysis to establish licensure of behavior
analysts and assistant behavior analysts. The sunrise recommendations supported the
proposal because it met the criteria, finding a strong potential for harm from the
unregulated practice of ABA. The department added a recommendation to require
department certification of behavior technicians, who have unsupervised contact with
vulnerable clients in their homes. The requirements for licensure proposed in the
Sunrise Review were based on the Behavior Analyst Certification Board (BACB), the
national certifying body for ABA professionals, requirements.

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1 Behavior Analyst Sunrise Review, Department of Health Publication, Number 631-05, (December 2014).
2 Sunrise Act (RCW 18.120.010)
BACB defines ABA as “a systematic approach for influencing socially important behavior through the identification of reliably related environmental variables and the production of behavior change techniques that make use of those findings”.3 The U.S. Surgeon General asserts that ABA has been proven effective in promoting the health and well-being of children with Autism Spectrum Disorder (ASD) and other conditions by decreasing unwanted or harmful behaviors and increasing positive behaviors.4 ABA is practiced in a variety of settings including hospitals, clinics, private homes, schools, nursing homes, group homes, and businesses with children as well as adults.

Rules establish enforceable licensing and certification requirements for the credentials identified in statute, and provide a safety mechanism for clients receiving ABA services. These safety mechanisms include minimum education, training, and supervision standards.

### Acronyms Used

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>ABA</td>
<td>Applied behavior analysis</td>
</tr>
<tr>
<td>ASD</td>
<td>Autism spectrum disorder</td>
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<tr>
<td>BACB</td>
<td>Behavior analyst certification board</td>
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<tr>
<td>BCaBA</td>
<td>Board certified assistant behavior analyst (national certification)</td>
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<tr>
<td>BCBA</td>
<td>Board certified behavior analyst (national certification)</td>
</tr>
<tr>
<td>CBT</td>
<td>Certified behavior technician (state certification)</td>
</tr>
<tr>
<td>LABA</td>
<td>Licensed assistant behavior analyst (state license)</td>
</tr>
<tr>
<td>LBA</td>
<td>Licensed behavior analyst (state license)</td>
</tr>
<tr>
<td>RBT</td>
<td>Registered behavior technician (national registration)</td>
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</table>

### SECTION 2:

**Is a Significant Analysis required for this rule?**

Significant analysis is required for portions of this rule under RCW 34.05.328(5)(c)(iii) because the proposed rules adopt substantive provisions of law that may result in a penalty or sanction if violated. However, the department has determined that no significant analysis is required for the following sections of rule.

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<table>
<thead>
<tr>
<th>WAC Section</th>
<th>Reason</th>
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<tbody>
<tr>
<td>246-805-010 Definitions.</td>
<td>Does not meet the definition of significant legislative rule</td>
</tr>
<tr>
<td>WAC 246-805-210 Licensed assistant behavior analyst – Recognized educational programs</td>
<td>Adopts or incorporates by reference without material change Washington state statute. RCW 34.05.328(5)(b)(iii).</td>
</tr>
<tr>
<td>246-805-990 Fees.</td>
<td>Sets fees pursuant to legislative standards. RCW 34.05.328(5)(b)(vi).</td>
</tr>
</tbody>
</table>

SECTION 3:
Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

The general goal of chapter 18.380 RCW is to protect the public from potential harm from the unregulated practice of ABA. The statute creates three new health profession credentials, LBA, LABA, and CBT, with the objectives of setting minimum education, training, and practice standards that demonstrate competence to safely provide ABA services to the public.

The proposed rules implement the statute’s objectives by setting standards showing that ABA professionals practicing in Washington meet minimum levels of competence to practice with reasonable skill and safety. The rules also provide guidance and oversight to credential holders to help maintain safe practice.

The rules implement the statute by creating the following standards:

- Defining qualifications for all three credentials, including education, training, and experience.
- Defining supervision requirements for behavior technicians before and after certification, and
- Outlining the allowable tasks certified technicians are authorized to perform when working with clients.
SECTION 4:
Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

The goals and objectives of the statute are met by providing clear and appropriate rules. The department determined the proposed rules are needed because they provide guidance where the statute does not clearly define the requirements for obtaining a credential. In addition, the rules direct credential holders to provide adequate supervision to LABAs and CBTs to maintain a level of support and guidance to safely provide services to the public. The proposed rules represent the department’s commitment to achieve its statutorily defined goals and objectives.

The department and stakeholders agreed that rule-making is appropriate to promote clear and consistent guidance to person seeking and maintaining a credential. In addition, the rules provide a level of confidence and safety to clients and their families who receive services, making sure services are being provided by qualified professionals in a regulated environment.

If the proposed rules are not adopted, ABA professionals will no longer be able to practice in Washington State after July 1, 2017; thus, interrupting current services they are providing to clients. This disruption could lead to negative consequences to potentially vulnerable clients living with ASD or other behavioral disorders. In addition, individuals who are deemed in need of ABA services will not have the opportunity to obtain such services. Lastly, the ABA professionals will be impacted negatively without the ability to earn an income.

SECTION 5:
Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

Licensed Behavior Analyst

WAC 246-805-100 Licensed behavior analyst – application requirements

Description: The proposed rule sets the requirements for initial licensure for a LBA.

No significant analysis is required for most of this section because the requirements are procedural or adopt or incorporate by material reference without material change Washington state statute. However, subsection (2) and (4) requires analysis.
Subsection (2) requires applicants to complete at least four clock hours of AIDS education as required by chapter 246-12 WAC, Part 8. In chapter 246-12 WAC a profession is directed to complete either four or seven hours of AIDS education. The ABA profession determined four hours will provide a proper level of education relating to this topic. Four hours was selected due to ABA professionals’ limited potential for exposure to blood-borne pathogens. The four compared to seven hours of education will reduce the costs of this requirement. The benefit outweighs the cost to make sure ABA professionals have a basic understanding of AIDS, and how best to work with this issue if it arises when working with clients.

Subsection (4) provides two options for qualifying for the LBA credential. Subsection (4)(a) accepts BACB certification as meeting the statutory degree, classroom hours, supervised experience, and examination requirements for licensure as a behavior analyst. The one-time cost to obtain this certification is $355. A BCBA makes an estimated $45 -105 an hour, so the cost of the initial certification will be recouped quickly. This is an annual cost many BCBAs have already been incurring to practice within the ABA field in Washington State. The Washington State Health Care Authority (HCA) requires professionals that are providing ABA services to be certified or eligible for certification with the BACB to receive Medicaid reimbursement. The proposed rules only require BACB certification on initial licensure, so it will only be a one-time cost to qualify for the LBA credential.

Subsection (4)(b) provides a second option for obtaining the LBA credential. Applicants without BACB certification must provide proof of meeting degree, classroom hours, supervised experience, and examination requirements. Currently the BACB examination is the only one, so applicants will be required to qualify for licensure through BACB certification until another examination is available.

One benefit of accepting the BACB certification is that there are over 400 individuals in Washington who currently have a BCBA certification and will qualify for a LBA license without further education, training or examination requirements. In addition, this supports the statute’s goal of having qualified ABA professionals who meet the statutory requirements for licensure and are be able to provide regulated ABA services by July 1, 2017.

The benefits outweigh the costs of this proposed rule. This rule sets standards that show that applicants for the LBA credential meet minimum levels of competence to practice with reasonable skill and safety to protect the public from harm. The cost to

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5 RCW 18.380.050 allows the secretary to “accept certification by a national accredited professional credentialing entity in lieu of... specific requirements” for licensure. The proposed rules accept BACB certification as meeting the education and training requirements for the LBA, LABA, or CBT credentials.

6 http://work.chron.com/salaries-behavior-analysts-5980.html

7 WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements. (8)
obtain the required BACB certification will be recovered within a short time of practice once the LBA credential is obtained.

**Licensed assistant behavior analyst**

**246-805-200 Licensed assistant behavior analyst - application requirements.**

Description: The proposed rule sets the requirements for initial licensure for a LABA.

No significant analysis is required for most of this section because the requirements are procedural or adopt or incorporate by material reference without material change Washington state statute. However, subsection (2) and (5) requires analysis.

Subsection (2) requires applicants to complete at least four clock hours of AIDS education as required by chapter 246-12 WAC, Part 8. In chapter 246-12 WAC a profession is directed to complete either four or seven hours of AIDS education. The ABA profession determined four hours will provide a proper level of education relating to this topic. Four hours was selected due to ABA professionals’ limited potential for exposure to blood-borne pathogens. The four compared to seven hours of education will reduce the costs of this requirement. The benefit outweighs the cost to make sure ABA professionals have a basic understanding of AIDS, and how best to work with this issue if it arises when working with clients.

Subsection (5) provides two options for qualifying for the LABA credential. Subsection (5)(a) accepts BACB certification as meeting the statutory degree, classroom hours, and supervised experience requirements for licensure. The one-time cost to obtain this BACB certification is $290. A BCaBA makes an estimated is $24-33 per hour. This is a cost some BCaBAs have already been incurring to practice within the ABA field in Washington State. HCA requires professionals that are providing ABA services to be certified or eligible for certification with the BACB to receive Medicaid reimbursement.

Subsection (5)(b) provides a second option for obtaining the LABA credential. Applicants without BACB certification must provide proof of meeting the degree, classroom hours, and supervised experience requirements under proposed WAC 246-805-210, 220, and 230. Costs and benefits for these options are discussed below.

One benefit of accepting BACB certification is that there are an estimated 26 individuals in Washington who currently have this certification and will qualify for a LABA license.

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8 RCW 18.380.050 allows the secretary to “accept certification by a national accredited professional credentialing entity in lieu of…specific requirements” for licensure. The proposed rules accept BACB certification as meeting the education and training requirements for the LBA, LABA, or CBT credentials.

9 [http://www.payscale.com/research/US/Job=Board_Certified_Assistant_Behavior_Analyst/Hourly_Rate](http://www.payscale.com/research/US/Job=Board_Certified_Assistant_Behavior_Analyst/Hourly_Rate)

10 WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements. (8)
without further education or training requirements. In addition, this supports the statute’s goal of having qualified ABA professionals who meet the statutory requirements and be able to provide regulated ABA services by July 1, 2017.

246-805-220 Licensed assistant behavior analyst - required topics for classroom hours.
Description: RCW 18.380.050 requires LABA applicants to complete 135 hours of classroom instruction in specific applied behavior analysis topics determined by the secretary.

The secretary of health is directed in statute to determine the specific behavior analysis topics for these classroom hours in rule. The proposed rule aligns with the content areas required for BACB certification.

There are no costs associated with this rule since the number of classroom hours is directed in statute. The ABA-specific education will provide a foundation for the safe delivery of ABA services to the public.

In addition, since the statute was enacted, the BACB has increased the classroom hours required for national certification to 180 hours. The proposed rule is less burdensome to than the BACB requirement.

246-805-230 Licensed assistant behavior analyst - supervised experience.
Description: The proposed rule sets the requirement for LABA applicants to meet the minimum 1000 hours of supervised experience in behavior analysis required in statute. The rule includes supervision requirements and plan, activities and content of the supervised experience, and requirements for a supervisor. The prospective applicant must be enrolled in an ABA education program to begin gaining supervised experience.

The rule requires that at least 5 percent of the total experience hours (at least 50 hours) must be under supervision consisting of feedback and observation by a LBA or nationally certified BCBA. The remaining hours are spent on the job performing ABA duties. The 1000 hours and 5 percent of supervision are consistent with the supervised experience requirements set forth by the BACB.

The costs for an individual seeking an LABA credential as a student will be absorbed as part of their education. The supervised practicum fee for a student through University of Washington’s School of Education Applied Behavior Analysis program costs $5600 for three quarters.

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11 Before July 1, 2017, there will be no licensed behavior analysts, so the rule allows supervision of LABA students in Washington state by BACB-certified BCBA’s. As of July 1, 2017, only LBAs may provide student supervision in Washington. But the rule anticipates that LABA candidates trained outside of Washington may be supervised by BCBAs.
The cost range of providing the 1000 hours of supervision for an individual seeking an LABA credential outside of an educational setting is estimated at $3,500 to $5,000. The supervision costs could be incurred either by the employer or the individual pursuing an LABA credential. The employer-incurred costs include providing supervision in-house or by contracting out the supervision. The individual pursuing licensure-incurred costs will include obtaining supervision by a service provider outside of where the experience occurs. The estimated wage range for a BCaBA is $24-33 per hour.\textsuperscript{12} Future earnings by the BCaBA will offset the cost of individually obtaining supervision from an outside source.

A benefit of the proposed rule is that the language sets the expectations and standards for the supervised experience. An additional benefit of the supervised experience proposed rule is that the applicant will have the opportunity to learn additional skills and knowledge under supervision. The benefits outweigh the costs by having an adequately trained LABA providing ABA services to the public. This rule sets standards that show that applicants for the LBA credential meet minimum levels of competence to practice with reasonable skill and safety to protect the public from harm.

\textbf{Table 3. Costs to meet the five percent supervision requirement.}

<table>
<thead>
<tr>
<th>Source</th>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>University of Washington</td>
<td>Supervised practicum fee for a student through University of Washington’s School of Education Applied Behavior Analysis program cost for three quarters.</td>
<td>$5600</td>
</tr>
<tr>
<td>Washington Association of Behavior Analysis (WABA)</td>
<td>At least 50 hours of direct supervision at $100 per hour minimum. $5000 would be market value what an outside person would be paid.</td>
<td>$5000</td>
</tr>
<tr>
<td>Imagine Behavioral &amp; Developmental Services</td>
<td>Estimated a cost of $4000 for the agency to provide BCaBA level supervision.</td>
<td>$4000</td>
</tr>
<tr>
<td>Institute for Behavioral Training</td>
<td>Offers BCaBA supervision to meet BACB supervision requirements at $70 per hour. The services include one-to-one and small group supervision formats, professional guidance and support, supervision via video conferencing, assessment and curriculum. (50 hours x $70) <a href="http://www.ibehavioraltraining.com/">http://www.ibehavioraltraining.com/</a></td>
<td>$3500</td>
</tr>
<tr>
<td>Leaps and Beyond</td>
<td><a href="http://www.leapsandbeyond.com/#!__bcba-bcaba-supervision">http://www.leapsandbeyond.com/#!__bcba-bcaba-supervision</a></td>
<td>$3750</td>
</tr>
</tbody>
</table>

\textsuperscript{12} http://www.payscale.com/research/US/Job=Board_Certified_Assistant_Behavior_Analyst/Hourly_Rate
BCaBA Supervision Options- For all supervision options, supervision hours include; video review and feedback, phone conferencing, review and discussion of data collection and analysis, functional behavioral assessment and analysis, assistance and feedback related to program development and research review and discussion.

Options: 1 year or 18 Months. Includes 50 hours of supervision, and requires the trainee to work an average of 15-20 hours each week or more within the field of Applied Behavior Analysis.

Certified behavior technician

246-805-300 Certified behavior technician – application requirements.
Description: The proposed rule sets the qualifications for applicants to obtain a behavior technician certification, which include being 18 years old, having a high school diploma or equivalent, and certification as an RBT by the BACB or another national certification accepted by the secretary, or an alternative training program outlined in WAC 246-805-320 as analyzed below.

The proposed rule (subsection (5) requires applicants to complete at least four clock hours of AIDS education as required by chapter 246-12 WAC, Part 8. In chapter 246-12 WAC a profession is directed to complete either four or seven hours of AIDS education. The ABA profession determined four hours will provide a proper level of education relating to this topic. Four hours was selected due to ABA professionals’ limited potential for exposure to blood-borne pathogens. The four compared to seven hours of education will reduce the costs of this requirement. The benefit outweighs the cost to make sure ABA professionals have a basic understanding of AIDS, and how best to work with this issue if it arises when working with clients.

The CBT credential is an entry level credential which requires no prior training or experience, and practice standards to increase the chances that the public is receiving ABA services in a safe manner. Chapter 18.380 RCW only requires CBT training program be at least 40 hours, and directs the secretary to set all other training requirements and allowable practice tasks.

The committee and stakeholders recommended that the secretary set the minimum age of 18 and that applicants hold a high school diploma or equivalent. The cost of taking the high school diploma equivalent General Education Development (GED) tests is $120 ($30 for each of the four test modules). GED preparation classes are offered from no cost from some non-profit organizations to about $25 per module at local community colleges.

RCW 18.380.050 allows the secretary to accept registration by a nationally accredited certification entity to meet the training requirements for a CBT credential. The proposed
rule accepts BACB registration as meeting the requirements of this section. The department will evaluate other national entities that certify behavior technicians if we learn of them. These organizations will be evaluated on what individuals are required to learn and accomplish in order to receive a certification in the ABA field.

CBTs who hold the RBT credential have completed 40 hours of training, and passed both a competency assessment and examination. The initial cost to become a RBT from the BACB is $145, which includes the fees for the application ($50) and examination ($45). An entry level CBT starting with an organization will earn an estimated $12-15 an hour. Thus, the cost will be recouped in a short period after being employed. The benefits of the BACB-RBT path towards certification assures that applicants for a CBT credential meet the minimum age, education, and ABA training to protect the health and safety of clients.

The alternate path towards qualifying for a department-issued CBT credential includes completing 40-hour training program from an agency, business or individual. The analysis of this path is described in WAC 246-805-320.

The benefits outweigh the costs of this proposed rule. This rule sets standards that show that applicants for the LBA credential meet minimum levels of competence to practice with reasonable skill and safety to protect the public from harm.

246-805-310 Behavior technician training program.
Description: The proposed rule establishes requirements for the alternative CBT training referenced in WAC 246-805-310. RCW 18.380.050 requires the completion at least 40 hours of training to qualify for a CBT credential. The training program consists of instruction in ABA topics, practicing and applying behavior analysis, and an assessment of knowledge and skills for entry level competency. In addition, the proposed rule sets the supervision requirements of trainees while in the training program.

The costs to agencies, businesses, or individuals occur when a trainee needs additional instruction and supervision. The training program requires trainees to practice techniques in a simulated situation. In addition, the program requires the trainee to observe and perform ABA services with clients. When working with clients the proposed rule requires trainees to be within hearing and sight of a LBA or BCBA.

This level of supervision is required until the trainee gets his or her CBT credential. This assures that the supervisor is available to intervene if a trainee encounters serious behavior issues with the client, or to assure that the trainee is appropriately applying ABA treatment plans developed by the supervising LBA in a manner that protect the health and safety of the client. Clients of ABA services are often vulnerable children with ASD or other behavioral disorders, and services often occur in the client’s home.
The estimated cost range $1,820 to $2,754 for the complete forty-hour training program led or approved of by an employing agency, business, or individual (See Table 4). The components of the training include:

- Classroom, online, or supervisor-led instruction in behavior analysis topics;
- Supervisor-led instruction to include practicing techniques in simulated situations;
- Supervision to include observing the trainee performing ABA services to clients; and
- Assessment of knowledge and skills during the trainee’s demonstration of entry level competency.

A trainee may acquire the 40 hours in classroom or on-line training in the required content areas outside of employment. A cost range of on-line training is $85 to $300. (See Table 5)

In order for an individual to meet the training requirements, their knowledge and skills must be evaluated and assessed for entry level competency by a LBA or BCBA. This includes practicing techniques in a simulated situation and observing and performing ABA services with clients under supervision by an agency, business, or individual. The estimated cost range is $1,140 to $2,454 for an agency, business, or individual to assess the level of competency of trainee (See Table 4). For one agency\(^\text{13}\) it is estimated that for every hour a behavior technician provides services to clients, the agency receives $15 in revenue. In relation to the aforementioned cost range for assessing a trainee’s competency, an agency will realize a return on investment from the training program after an employee works an estimated 76 to 164 hours.

The benefits outweigh the costs of this proposed rule. This rule sets standards that show that applicants for the CBT credential meet minimum levels of competence to practice with reasonable skill and safety to protect the public from harm. CBTs often provide services to vulnerable clients in their homes, so adequate supervision is necessary to reduce risk of harm while in training. In addition, employers will benefit by having employees who have an understanding of how to apply ABA and who are able to receive income from providing ABA services to clients. Candidates will learn ABA knowledge and skills to increase the likelihood of providing effective and safety ABA services to clients.

\(^{13}\) Magnolia Behavior Therapy
Table 4. Selected costs completing alternative training path

Describes current costs of training that meets the training and supervised experience requirements to meet the BACB-RBT requirements in WAC 246-805-310, and the alternative CBT training and assessment of competency of trainee in WAC 246-805-320.

<table>
<thead>
<tr>
<th>Source</th>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imagine Behavioral &amp; Developmental Services</td>
<td>The agency pays for a 40 hour training module which is typically $200 plus the hourly trainee pay rate of $12 per hour ($12 x 40 hrs=$480). Subtotal: $480+$200= $680 Additional 20 hours of implementation at $12 trainee pay rate=$240. Cost of the trainer is $45 x 20hrs=$900. Subtotal = 1140.00</td>
<td>Cost for 40-hour training module: $200 Cost for 40-hour training module and trainee wage: $680 Cost for supervisor led-instruction to include practice, observation and competency = $1140 Total cost = $1820</td>
</tr>
</tbody>
</table>
| Magnolia Behavior Therapy      | • Online RBT Training: $300 [Relias, a learning management provider]  
• Instructor time with hands-on training: between $500 and $1,500, depending on how many hours the BT needs to get up to speed. [in addition to the online training, A BCBA administers training protocols]  
• Shadow/observation sessions: $250 [time paid to the BT for non-billable sessions in which they shadow another BT]  
• Supervisor Competency Assessment: $250.00 [BCBA time spent educating and training the BT so they can pass the Competency Assessment, in order to be able to sit for the RBT Exam]  
• Travel time: $75.00 [estimated costs of travel reimbursements, to and from shadow sessions, training sessions with a BCBA and the Exam site]  
• Training rate at $9.47/ hour for a minimum of 40 hours= $379 | Cost for 40-hour course work = $300 Cost for supervisor led-instruction to include practice, observation and competency = $1,454 - $2,454 Total cost = $1,745 - $2,754 |
Table 5.
Describes the costs of obtaining only the 40-hours of instruction with required content areas, but not including assessment of competency of trainee.

<table>
<thead>
<tr>
<th>Source</th>
<th>Description</th>
<th>Cost</th>
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| Institute for Behavioral Training  | http://www.ibehavioraltraining.com/ibt/DirectStaff-RBT.aspx Training description:  
• Meets the BACB RBT requirement of 40 hours of training  
• Trainings designed specifically from the RBT Task List  
• Online courses that can be completed anytime, anywhere  
• Created by BCBAs | $300  |
| Consultants for Children Inc       | http://autismbxtraining.com/ Training description:  
• Meets the BACB RBT ® requirement of 40 hours of training  
• Designed around RBT Task List  
• Offer in office, online and hybrid classes | $250  |
| Child Enrichment Center            | http://www.childrenrichmentcenter.org/rbt-training.html Training description:  
• Online training that teaches the basic ABA terminology, principles of behavior, and provides video demonstration of commonly-used ABA procedures with children.  
• The training covers all of the tasks and subtasks in the RBT Task List and the Professional and Ethical Compliance Code that been designated as being as being relevant for behavior technicians. | $85   |

**246-805-320 CBT - Allowable tasks.**
Description: The proposed rule provides guidance regarding the tasks and responsibilities of certified behavior technicians when providing ABA services. Chapter 18.380 RCW does not establish a scope of practice for CBTs, but directs the secretary to establish a CBT’s allowable tasks in rule.

There are no costs associated with this proposed rule. The rule’s benefits include clearly describing the CBT’s allowed and prohibited tasks. This provides the standards on what services a CBT provides with ABA clients in a manner that protects clients’
safety and health. The rules provide guidance and to credential holders to help maintain safe practice. The proposed rule reflects input from stakeholders and the ABA Advisory Committee during the rule development process.

**246-805-330 Certified behavior technician- continuing supervision.**

Description: The proposed rule sets the requirements for supervising CBTs once they obtain the credential, including minimum qualifications of the supervisor, development of a supervision plan, and the amount and type of supervision.

The propose rule requires supervision of CBTs from LBAs or LABAs. The benefit of this proposed rule is that it provides guidance and oversight to credential holders to help maintain safe practice. Nationally certified BCBAs and BCaBAs already provide supervision when developing treatment plans with behavior technicians, and these experienced ABA providers perform ongoing supervisory interactions with technicians. Since supervision is already occurring on some level, this rule will not impose significant additional costs to businesses or individuals and will increase the likelihood that clients are receiving safe and proper ABA services from CBTs through continuing supervision.

**SECTION 6:**

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

The department and ABA Advisory Committee held six stakeholder workshops in the summer and fall of 2016 focused on implementing SSB 5488. Stakeholders included the representatives of the Washington Association for Behavior Analysis and ABA professionals. The workshops provided an opportunity for the public to provide comment on the proposed rule language. The department received substantial input from the committee and the public on the initial draft rules. Alternative versions of the rule sections included:

**WAC 246-805-100 Licensed Behavior Analyst-Application Requirements**

The proposed rule accepts the BACB examination as meeting the statutory requirements. The only option for qualifying to take the BACB examination is through applying for certification as a BCBA.

The department discussed an alternative of developing a state examination to meet the requirement for the LBA credential. This alternative would have provided an alternative pathway to licensure in addition to BCBA certification. The department decided to

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14 As of July 1, 2017, all ABA providers must have a state-issued credential.
accept the BACB examination, which is accepted within the industry, until the department determines the feasibility of developing a separate state examination. The proposed rule is the least burdensome alternative because a majority of behavior analysts are BCBAs and have already passed the examination.

**WAC 246-805-210 Licensed Assistant Behavior Analyst-Recognized educational programs.**

As stated in the statute, the Secretary has the authority to approve bachelor’s programs for assistant behavior analysts to meet the minimum degree requirements for licensure.

The committee and stakeholders discussed whether to limit the types of degrees for LABA’s similar to those accepted by the BACB.

The department chose not to limit this requirement to a specific program, and to accept a bachelor’s program in any discipline from an accredited institution. This language was selected because the classroom and supervised experience for LABA licensure may be obtained either within the student’s bachelor’s degree program or afterwards. The proposed rule represents the least burdensome education path to licensure for LABA applicants by accepting all bachelor’s degrees.

**WAC 246-805-320 Behavior technician training program.**

This section sets the requirements for the 40-hour training program for CBTs and includes standards on supervision during training, which includes requiring the supervisor of the trainee to be within sight and hearing and available for immediate intervention when working directly with clients.

The department considered an alternate version of this section on how the training contents areas delivered to trainees. The version included only classroom or supervisor-led instruction. During researching on how behavior technicians obtain 40-hour training to qualify for the BACB-RBT, on-line instruction in applied behavior analysis content areas was determined to be a source of instruction that assists behavior technicians pursing a CBT credential to acquire applied behavior analysis knowledge. The proposed requirements are the least burdensome by allowing trainees and employers to utilize other training providers and delivery methods to obtain behavior analytic knowledge.

The department considered an alternate version of this section by having all of the components of the training program to be included within the 40 hours. The alternate version included the supervisor-led instruction of the trainee as separate and an additional part of the training program. The training led by the supervisor is now included as part of the forty hours of the program versus being an additional requirement of the overall program. This requirement is least burdensome by continuing to have trainees meet the 40 hours of training, and meeting the goal of still having the trainee’s knowledge and skills being evaluated and assessed demonstrating entry level competency.
The department considered an alternative version of this section that included an intermediate level of supervision between when the trainee completes his or her 40-hour training program and when he or she receives certification from the department. This version was considered in response to comments from committee members and workshop participants who stated it would be overly burdensome to require the supervisor to be within sight and hearing 100 percent of the time.

The proposed supervision requirement is not the least burdensome alternative for supervisors. However, the department determined that the alternative version created an undue risk to the public because it would not provide a level of supervision that would adequately protect the health and safety of clients and would not allow the department to take disciplinary action if a trainee acted in a manner that jeopardized the health and safety of clients.

**WAC 246-805-320 Supervised experience licenses assistant behavior analyst.**

This section clarifies the requirements set in the statute for the assistant behavior analyst to obtain 1,000 hours of supervised clinical experience. The proposed version requires a qualified supervisor to have practiced by providing 1500 hours of behavior analytic services to clients as a LBA or a BCBA.

The alternative version the department considered required qualified supervisors to have practiced at a full time equivalency for at least three years.

The proposed version is the least burdensome alternative because it sets a more reasonable requirement for qualified supervisors, which will create the opportunity for more behavior analysts to qualify. This will help to increase the number of LABAs practicing in Washington.

**SECTION 7:**

**Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.**

The proposed rules do not require those to whom it applies to take an action that violates requirements of another federal or state law.
SECTION 8:
Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The proposed rules do not impose more stringent performance requirements on private entities than on public entities.

SECTION 9:
Determine 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.

There are no federal regulations or statutes applicable to the same activity or subject matter.

SECTION 10:
Demonstrate 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 Health Care Authority (HCA) and the Department of Social Health Services (DSHS) Division of Behavior Health and Recovery (DBHR) have rules regulating ABA services and the qualifications of providers that receive Medicaid reimbursement. The department conferred with both agencies during the stakeholder process to determine whether the proposed rules will negatively impact the current process for Medicaid reimbursement. It is anticipated that some of the HCA and DBHR rules will need to be amended or repealed; however, the proposed rules should not result in any barriers for Medicaid reimbursement and will protect the safety of the public.

15 Health Care Authority (HCA), chapter 182-531A WAC Applied behavior analysis
16 Department of Social and Health Services (DSHS), Division of Behavior Health and Recovery (DBHR), WAC 388-877A-0370 Recovery support services requiring program-specific certification—Applied behavior analysis (ABA) services