

# **Significant Legislative Rule Analysis**

for WAC 246-847-067  
Rule Concerning Occupational Therapy

August 6, 2019

## **SECTION 1:**

**Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.**

The Occupational Therapy Practice Board (board) is proposing to adopt a new section of rule, WAC 246-847-067:

- To establish requirements for occupational therapy applicants that hold an expired license in another state and are seeking Washington licensure.

This route to licensure was inadvertently deleted during previous rulemaking in WSR 18-09-032. To ensure this route to licensure is still available, rulemaking is required. Rulemaking establishes enforceable licensing requirements and a safety mechanism for patients receiving occupational therapy services. These mechanisms ensure competence, appropriate education, and training for applicants that have not been actively practicing for an extended period of time.

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## **SECTION 2:**

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

The proposed rule establishes processes, practices, and requirements for the practice of occupational therapy in Washington State by reinstating a route to licensure that was inadvertently removed. This rule set requires significant analysis as described in RCW 34.05.328(5)(c)(iii)(B) because the language establishes a qualification or standard to issue a license or permit.

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## **SECTION 3:**

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

The general goal of chapter 18.59 RCW is to protect the public from potential harm that could occur under the unregulated practice of occupational therapy. The statute creates licensing, education, and scope of practice standards that demonstrate competence to safely provide occupational therapy services to the public.

The proposed rule implements the statute's objectives and authority by:

- Setting a standard for becoming licensed in Washington after a prolonged absence; and
- Supporting the overarching goal of chapter 18.59 RCW to make sure that occupational therapy services are provided by competent, appropriately

educated and trained occupational therapists and occupational therapy assistants.

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## **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 clearly written and appropriate rules for licensure. It was determined that the rule is needed because it provides guidance where the statute does not clearly define the requirements for obtaining an occupational therapist or occupational therapy assistant credential if the applicant has an expired license in another state and is seeking Washington licensure.

The board and stakeholders agreed that rulemaking is appropriate to establish a route to licensure for applicants with an expired out of state occupational therapy credential who are looking to gain Washington licensure. Rulemaking provides applicants with education and licensing requirements. Additionally, concisely written rules assure a level of confidence and safety that patients and families can rely on when receiving services from qualified professionals in a regulated environment.

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## **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.**

The proposed rule that is significant is analyzed below.

### **1. New Section - WAC 246-847-067 Application for individuals who have an expired license in another state and are seeking Washington licensure**

Description: The proposed rule details the requirements needed to obtain a Washington license when the practitioner's license is expired in another state. The new rules include various requirements for tiers of less than three years, three to less than five years and five or more years out of practice:

- If an applicant has an expired license in another state for less than three years, they must follow 246-12 WAC which consists of:
  - applicable fees, and
  - 30 hours of continuing education per WAC 246-847-065.

- If an applicant has an expired license in another state for more than three years but less than five from date of application, in addition to requirements listed above, they must complete:
  - Complete any other requirements recommended by the board.
- If an applicant has an expired license in another state for five years or more from date of application, in addition to the above requirements, must
  - Complete a re-entry program which consists of either:
    - A formal program at an occupational therapy school; or
    - Completing the board's re-entry program which has three components; a self-assessment, a study plan, and obtaining at least 80 supervised hours with a supervisor
  - And choose between:
    - Extended coursework pre-approved by the board, or
    - Retaking and passing the national examination.
  - Complete any additional requirements recommended by the board
- An oral interview may be required by the board.

#### Cost/Benefit Analysis:

The proposed rule ensures safety to the public and community that occupational therapy practitioners have current clinical skills and are competent to practice. The proposed rule contains additional costs to applicants, with the requirements becoming more stringent the longer their credential has been expired. The costs for these requirements vary.

- Continuing education can be achieved through a variety of activities: self-study, developing instructional materials, direct supervision, online courses and webinars, professional conferences, etc. The costs range from free for self-study, to \$10 per CE hour for workshops, up to \$290 for 17 CE hours for attendance at a conference (average \$17 per CE hour).
- The reentry program may have financial costs, depending on which track the applicant chooses. For a formal course at an occupational therapy school, the total costs are around \$2,200. To complete the board-designed reentry plan consisting of a self-assessment, a study plan, and obtaining at least 80 supervised hours of clinical experience, the costs would be minimal. If the applicant holds a job, they may have to take time off of work or adjust their schedule to complete the clinical component of the reentry program.
- The cost of the national examination is between \$500 and \$600.
- If any additional course work is required by the board to fill in any gaps in skills and knowledge, costs may vary but would mimic the cost of CE courses.

The proposed rule provides benefit by clearly providing guidance and defining the requirements for occupational therapy practitioners that have an expired license in another state and are seeking Washington licensure. These requirements give the board a high level of oversight to ensure the safe practice of occupational therapy is

maintained by those seeking Washington licensure who have not practiced for an extended period of time. The additional requirements and related costs are offset by the quality of care in having up to date skills and knowledge.

Additionally, these requirements mimic language recently adopted in WSR 18-09-032 for sections WAC 246-847-055 Initial applications for individuals that have never practiced occupational therapy, WAC 246-847-068 Expired license and WAC 246-847-070 Inactive credential. A matrix comparing the regulations for each route to licensure is below.

<b>Initial Applicant, never practiced, 3-5 years since Graduation</b>	<b>Expired WA license 3-5 years</b>	<b>Inactive WA license 3-5 years</b>	<b>Expired in other state, 3-5 years since practiced PROPOSED LANGUAGE</b>
All general reqs for licensure	All general reqs for licensure	All general reqs for licensure	All general reqs for licensure
30 hours of CE	30 hours of CE	30 hours of CE	30 hours of CE
Board-approved reentry program			
Any other additional Board reqs			Any other additional Board reqs

<b>Initial applicant, never practiced, over 5 years since graduation</b>	<b>Expired WA license over 5 years</b>	<b>Inactive WA license over 5 years</b>	<b>Expired in other state for over 5 years PROPOSED LANGUAGE</b>
All general reqs for licensure	All general reqs for licensure	All general reqs for licensure	All general reqs for licensure
30 hours of CE	30 hours of CE	30 hours of CE	30 hours of CE
Board-approved reentry program	Board-approved reentry program	Board-approved reentry program	Board-approved reentry program
Extended Coursework OR Retaking the required exams	Extended Coursework OR Retaking the required exams	Extended Coursework OR Retaking the required exams	Extended Coursework OR Retaking the required exams
Any other additional Board reqs	Any other additional Board reqs	Any other additional Board reqs	Any other additional Board reqs
May require oral interview			May require oral interview

## **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.**

Board staff worked closely with occupational therapy professional associations and other constituents to minimize the burden of this rule. Stakeholders were offered opportunities to participate in rulemaking workshops and provide suggested rule changes and comments. During open public rules workshops no comments were received.

### **Least burdensome determination**

The board's stakeholdering process encouraged parties to:

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

No alternatives were considered since the language closely mimics other recently adopted rules for similar circumstances. The rules proposed are the least burdensome alternative by providing clear requirements for occupational therapy applicants for licensure that are consistent with current law and practice and will achieve the statutorily described general goals and specific objectives of chapter 18.59 RCW.

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

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## **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 rule does not impose more stringent performance requirements on private entities than on public entities.

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**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.**

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

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**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.**

There are no other applicable laws.