

Significant Legislative Rule Analysis

WAC 246-809-210
a Rule Concerning Definitions Specific to
Licensed Mental Health Counselors and
Licensed Mental Health Counselor Associates

[09/20/16]

SECTION 1:

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

Proposed WAC 246-809-210 amends the definition of “approved education program.” Applicants for a mental health counselor or mental health counselor associate license must complete their required education at an “approved educational program.” The current rule defines approved educational programs as ones accredited by an accreditation body recognized by the Council for Higher Education Accreditation (CHEA). The Department of Health (department) is proposing to amend the definition of “Approved education program” to include education programs accredited by an accreditation body recognized by CHEA or the U.S. Department of Education (USDOE). Changing this definition will create an option for accrediting bodies to be recognized by either CHEA or USDOE. This will allow an acceptable level of flexibility towards accreditation while maintaining accrediting bodies’ integrity.

Many colleges and universities obtain accreditation from private nonprofit membership associations that are recognized by USDOE, CHEA, or both. Colleges and universities seek accreditation in order to verify that their educational programs meet national standards and to become eligible for federal programs.

The Northwest Commission of Colleges and Universities (NWCCU), which accredits many of our state’s educational institutions, has decided to not renew their membership with the CHEA. When the department was alerted to NWCCU’s decision, we began investigating the possibility of revising the rule to include additional organizations that could recognize accrediting bodies.

Through the collaborative process with the department’s advisory committee and stakeholders, the department determined that the process the USDOE uses to “recognize accrediting bodies” is satisfactory. USDOE evaluates and recognizes accrediting organizations if it determines they conduct a comprehensive review of the quality of education or training provided by institutions of higher education. A summary process used by the USDOE to review accrediting bodies is described in Section 5 below.

SECTION 2:

Is a Significant Analysis required for this rule?

Yes, the proposed rule amendment would alter a standard for the issuance of a license, therefore meeting the requirement in RCW 34.05.328(c)(iii) for a significant analysis.

SECTION 3:

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

The objectives of the statutes being implemented are to ensure only qualified candidates are eligible for licensure by setting minimum standards for education.

RCW 18.225.040 directs the department to adopt rules necessary to implement the requirements in the chapter for mental health counselors, marriage and family therapists, and social workers.

RCW 18.225.090 provides authority to the department to approve educational programs in colleges and universities that mental health counselors and mental health counselor associates may attend in order to meet the minimum education requirements for licensure. The department's approvals must be based upon nationally recognized standards.

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.

RCW 18.225.090 provides authority to the department to approve educational programs of colleges and universities that counselors may attend in order to meet the minimum education requirements for licensure. The department's approvals must be based upon nationally recognized standards.

WAC 246-809-210 is being amended to ensure that educational programs that meet nationally recognized standards can obtain approval by the department. The proposed rule will help achieve the goals and objectives of the statute because it eliminates barriers that may prevent the department from giving approval to some educational programs.

There is no alternative to rulemaking because RCW 18.225.040 directs the department to adopt rules related to licensure of mental health counselors, marriage and family therapists, and social workers. If the proposed rule is not adopted, the current rule will limit the number of educational programs available to prospective counselors. These limitations may create barriers to prospective licensed mental health counselors and licensed mental health counselor associates seeking licensure. There is also concern it may create enrollment issues for educational programs not accredited by an organization recognized by CHEA.

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 retains the option for accrediting bodies to be recognized by CHEA but it also adds the USDOE as another option for accrediting bodies to become “recognized.”

In exploring if it was appropriate to add an additional organization that could “recognize” accrediting bodies, the department worked with the advisory committee and stakeholders in a collaborative process. Collectively, department staff and stakeholders determined that the USDOE review process of accrediting bodies satisfactorily meets the department’s requirements under RCW 18.225.090 for national standards. USDOE, when evaluating accrediting bodies, review the following components:

- Accreditation standards and procedures.
- Policies and procedures.
- Most recent externally audited financial statement.
- Published lists of accredited schools or programs.
- Self-study guidelines.
- Guidance and training materials for visiting team members.
- Sample completed self-study reports.
- Sample site visit reports.
- Sample institution responses to site visit reports.
- Sample minutes of decision meetings.

During their review, USDOE may also visit the accrediting body’s administrative office to conduct staff interviews and to review the agency’s facilities, records and operations. They may also conduct interviews or surveys in order to obtain further information. If USDOE provides “recognition” to the organization, then the organization is added to the list of nationally recognized accrediting agencies. The department determined that the USDOE process meets the national standard for “recognizing” accrediting bodies. Thus, the department is proposing to amend the rule to add USDOE as an additional organization that can “recognize” accrediting bodies.

Rule Cost/Benefit Analysis: There are no additional costs associated with the proposed rule. Establishing this additional option for accrediting bodies to become recognized will likely result in:

- Reduced barriers to accreditation;
 - Increased number of approved educational programs; and
 - Increased number of graduates that meet minimum licensure requirements.
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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 least burdensome alternative was to propose a rule that added the option of receiving accreditation from an organization recognized by USDOE. The proposed rule helps the department achieve the goals and objectives of the authorizing statute.

Not amending the rule was evaluated as an alternative. But this would reduce the educational options for students seeking to meet the requirements for a Washington credential as mental health counselor or mental health counselor associate, since schools accredited by NWCCU would not meet the requirements of the rule.

The proposed rule was developed collaboratively by staff working closely with the Mental Health Counselor Advisory Committee and stakeholders during open public meetings. The collaborative process included sending notice of the rulemaking to the listserv.

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 rule does not require those to whom it applies to take an action that violates requirements of 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 rule does 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.

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

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.