

**Significant Analysis
For Rules Concerning
Chapter 246-809 WAC Licensed Counselors and Associate-level Credentials**

Briefly describe the proposed rule.

Second Substitute House Bill (2SHB) 2674 (Chapter 135, Laws of 2008) amended credentialing standards for Registered Counselors. The legislation created eight new counseling professions, effective 7/1/09, and abolished the registered counselor (RC) credential effective 7/1/10. Sections 11-14 of the bill added four of the new counseling professions as the following associate-level credentials:

- Licensed social work associate – advanced (LSWAA)
- Licensed social work associate – independent clinical (LSWAIC)
- Licensed mental health counselor associate (LMHCA), and
- Licensed marriage and family therapy associate (LMFTA).

The new associate-level professions provide a pathway for individuals to meet the requirements for full licensure in their profession.

The amended statute requires the Department of Health (department) to develop rules for the eight new counseling professions. Rules for the other new professions will be addressed separately. These proposed rules apply to the new associate-level professions and describe the requirements to obtain a credential in these new professions:

- Identify the educational requirements for each associate-level credential.
- Add an exemption to waive the documentation of the supervised postgraduate experience requirement necessary for full licensure.
- Modify supervised experience requirements for a social work license.
- Repeal mandatory reporting requirements that are redundant due to the implementation of WAC 246-16-200 through WAC 246-16-270 – Mandatory Reporting.

Department staff worked closely with constituents and the public to minimize the burden of these rules. 2007 legislation required that the department convene a workgroup to identify and recommend changes to improve public protection and regulation related to registered counselors. Members included psychiatrists, psychologists, masters degree level counselors (marriage and family counselors, clinical social workers, mental health counselor), registered counselors with and without degrees, from the public and private settings, registered counselor supervisors, patients, and public representatives. Professional associations also attended the workgroup's meetings and provided comments.

Is a Significant Analysis required for this rule?

Yes.

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

RCW 18.205.090 establishes the licensure requirements to practice as a master’s degree level counselor. The legislative intent is to ensure mental health and counseling professionals meet and maintain minimum standards before they provide counseling services to the public.

The statutory goal is to increase the public’s safety by making sure that only qualified individuals provide counseling. The legislation creates the four new associate-level credentials as a pathway for individuals new to the professions and for current registered counselors to obtain the minimum requirements for an associate-level credential. Current registered counselors must obtain a new mental health counseling credential by 7/1/10.

- Licensed social work associate—advanced (LSWAA),
- Licensed social work associates—independent clinical(LSWAIC),
- Licensed mental health counselor associate (LMHCA), and
- Licensed marriage and family therapy associate (LMFTA).

An associate is a pre-licensure candidate with a graduate degree in mental health under RCW 18.225.090. The associate is gaining the supervision and supervised experience necessary to become fully licensed. Individuals with an associate-level credential must demonstrate they are working towards full licensure. Full licensure requires the supervision and supervised experience.

The proposed rules will implement the legislation that creates these new professions. The rules also achieve the objective of RCW 43.70.250 for license holders to bear the cost of administering the licenses. The secretary of the department is directed to establish the amount of all applicable fees associated with licensing or regulating the profession.

B. Determine that the rule is needed to achieve these goals and objectives, and analyze alternatives to rulemaking and the consequences of not adopting the rule.

The statute requires the department to adopt rules. There are no alternatives to rulemaking. Standards need to be in rule in order to be enforced. The proposed rules establish the education required for associates to gain post-graduate supervision experience for full licensure. The stakeholders provided input to the draft rules and there are no options to the draft language.

C. Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

This rule package includes three new sections, 21, amended sections, and six repealed sections. Six sections meet the definition of significant, because they set criteria necessary for an individual to comply with in order to obtain a license.

WAC	Rule Purpose	Action	Significant Y / N
246-809-010	Adds definitions for “associate” and "Independent social work, mental health counseling, or marriage and family therapy."	Amended	No
246-809-035	Adds licensed associate to the record keeping and retention requirements.	Amended	No
246-809-040 246-809-061	Licensed associate is added the reporting requirements.	Amended	No
246-809-062 246-809-063 246-809-064 246-809-065 246-809-066	Mandatory reporting requirements, which are no longer needed in chapter 246-809 WAC.	Repealed	No
246-809-110 246-809-210 246-809-310	Associate is added to the definition section that relates to marriage and family therapy.	Amended	No
246-809-120 246-809-220 246-809-320	Clarifies that in order to apply for full licensure or associate level licensure, an applicant must have a master’s or doctoral degree.	Amended	Yes
246-809-100 246-809-200 246-809-300	Includes an exemption - one-year option to obtain a LMFT, LMHC, LASW, or LICSW license without the post-graduate supervision experience documentation.	New	Yes
246-809-121 246-809-134 246-809-140 246-809-234 246-809-240 246-809-600	Housekeeping.	Amended	No
246-809-334	Modify the supervision requirements for a LICSW.	Amended	No
246-809-130	Clarifies that an associate is not required to have supervised post-graduate experience. Requires an	Amended	No

	associate to declare they are working towards full licensure.		
246-809-230	Housekeeping. Clarifies that an associate is not required to have supervised post-graduate experience. Requires an associate to declare they are working towards full licensure. Adds information about applicants from a Council for Accreditation of Counseling and Related Educational Programs (CACREP) being credited with 500 hours of post-graduate experience and 50 hours of postgraduate supervision. This has been a policy in place since 1994 and was never added to the rules.	Amended	No
246-809-710	Requires associates to provide clients with disclosure information.	Amended	No
246-809-990	Adds the associate level credential holders to the fees, clarifies renewals for licensed counselors and associates, housekeeping.	Amended	No

WAC 246-809-100, WAC 246-809-200, WAC 246-809-300, Grandfathering Option –

These sections are significant because they set criteria that are necessary for an individual to comply with in order to obtain a license. This proposed rule enables individuals with the appropriate education and supervised experience to become a licensed professional in their respective field and thereby, transfer their status from a registered counselors. This will allow many registered counselors with Masters degree to become licensed more easily. Applicants must still pass the national examination required for their profession, which helps ensure only qualified applicants are licensed. To meet the grandfathering deadline applicants must apply by July 1, 2010.

WAC 246-809-120 Education requirements-degree equivalent, WAC 246-809-220 Education requirements, and WAC 246-809-320 Educational requirements and supervised experience.

These sections are considered significant, because they set criteria that are necessary for an individual to comply with in order to obtain a license. These sections explain the minimum educational requirements to receive a credential as an associate and licensed counselor. In order to meet the licensure requirements, an applicant must have a graduate degree in a mental health-counseling field under RCW 18.225.090. This section affects the associate level practitioners. They must have completed their masters' degree programs before they can apply for an associate credential. Before the legislation passed, they could apply for their RC at any time.

WAC 246-809-990 Licensed counselors and associates – Fees and renewal cycle

The proposed rules establish the fees to obtain and renew the associate credential. RCW 43.70.250 requires that all fees established in rule must cover the costs to administer the program and that the members of the profession must bear the costs. The fees for an associate are similar to the fees for a licensed counselor. The associate is a provisional credential for professional working towards full licensure, and it is limited to four annual renewals.

The following are estimates regarding the new professions:

- 639 individuals will apply to be a LMFTA
- 2,814 individuals will apply to be a LMHCA
- 1,628 individuals will apply to be a LCSWAIC
- 43 individuals will apply to be a LSWAA.

The cost to administer the licensed counselor programs is about \$1.8 million per biennium. The number of licensed counselors and associates credentialed in the next few years will affect the actual revenue and expenditure totals. Continual analysis of the program is necessary to ensure fees keep pace with expenditures, while not allowing revenues to become excessive. The proposed associate fees are less than the current fees for the RC.

The costs to regulate the profession affect the fees. These costs include rule-making, credentialing, and disciplinary activities. To determine the fee each provider pays, the department compares the total costs for a profession against the total number of credentialed providers in that profession. Each provider shares equally in the cost to run the program.

The costs to regulate each profession can change substantially from year to year. An increase in the number, or complexity, of disciplinary cases, or a drop in the number credentialed providers, can result in a need to increase fees. A drop in costs or an increase in providers can lead to reduced fees. Programs with fewer credentialed providers and high discipline costs may have higher fees and more fees changes.

The department has determined that the costs associated with the associate-level credentials are not new costs. To currently practice counseling, an individual must hold a counseling credential. Those practitioners that held a registered counseling credential must still obtain and hold a counseling credential. The registered counselor credential required the same costs as one of the full licensure or associate credentials. The proposed rules do not impose any new costs for the practitioner. The benefits for the counselors and to the public outweigh any costs.

After carefully considering the above factors, the analysis indicates the probable benefit of this proposed requirement exceeds the probable cost.

The benefit of these rules is to ensure only qualified individuals are credentialed in the licensed counselor profession. This requirement will increase public safety and ensure patients receive care from qualified practitioners.

D. Determine, after considering alternative versions of the rule, 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 stated previously.

The department staff worked closely with constituents and the public to minimize the burden of these rules. For Example:

1. A mailing was sent to all RCs with a Washington address regarding the new legislation.
2. The Licensed Mental Health Counselor, Marriage and Family Therapy, and Social Work Advisory Committee held public rules workshops in 2008 on May 2nd and September 5th in Kent.
3. Draft rule language was distributed throughout the rule writing process for public comment through listserv.

In the course of these and other efforts, the following alternative version of the rule was rejected:

Alternative version #1: The alternative versions of this draft did not include the grandfathering sections. Many professionals who meet the educational requirements for licensure as a mental health counselor, marriage and family therapists, or one of the social work professions chose not to obtain licensure, because they could work as a registered counselor without supervision. The change in legislation would make it necessary for these individuals to work as a certified counselor with supervision or to obtain supervision. This group of professionals is not exempt from the supervision requirement, only exempt from its documentation. Since, they were content working as a registered counselor, many choose not to document their supervision. The grandfathering option is an important piece of the rules that will help ensure that competent professionals are grandfathered into licensure. This will help reduce barriers, while protecting the health of the people of the state of Washington.

After considering alternative versions of the rule, that the rule being proposed is the least burdensome alternative.

E. 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 an action that violates requirements of federal or state law.

F. 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.

G. 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.

H. 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.