

Significant Legislative Rule Analysis

Amending WAC 246-834-060

Creating WAC 246-834-066

Creating WAC 246-834-067

Creating WAC 246-834-068

Amending WAC 246-834-220

Amending WAC 246-834-230

Amending WAC 246-834-240

A Rule Concerning Bridging the Gap between National Certification and Washington State Licensure Requirements for Midwives and Updating of Related Rules.

March 25, 2015

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

Second Substitute House Bill (2SHB) 1773 (Chapter 187, Laws of 2014) Section 2 amended RCW 18.50.065 requiring the Department of Health (department) to adopt rules to bridge the gap between national certification and state licensure requirements for midwives. The North American Registry of Midwives (NARM) provides a voluntary certification program to become a Certified Professional Midwife (CPM) through an individual portfolio evaluation process. CPM certification covers most, but not all, requirements to become a licensed midwife in Washington. The proposed rule seeks to “Bridge the Gap” between national voluntary CPM and license requirements for midwives in Washington State.

Requirements for the national certification are similar to Washington’s licensing requirements, but fall short in a few areas; certain courses, number of births attended, and demonstrated competency in legend drugs and devices as specified in Washington rules. To meet these gaps, all CPM applicants must show documentation of a total of 50 managed births, 50 observed births, and 50 women seen for pre-natal and postpartum care visits. In addition to the births and care visits, CPM applicants can expect to meet the following requirements:

- Courses in epidemiology, obstetric pharmacology, and professional issues
- Demonstrated competency in legend drugs and devices at outlined in WAC 246-834-250

The CPM bridge process will open up the licensing application process to many that would have found Washington's other licensure routes difficult; either through obtaining a degree at an approved school or by completing the Midwife in Training (MIT) program.

Midwife stakeholders in Washington support the use of the CPM process to better establish and calibrate alternative educational requirements towards licensure, while also maintaining a high standard of experience and knowledge for Washington licensure. National certification guarantees a baseline of education and experience, thereby eliminating the need for program staff to evaluate individual portfolios through the MIT program. Applicants that have a CPM certification can apply to the department. If they don't meet state requirements, they will be allowed to obtain a temporary permit authorizing them to achieve final licensure components. This will streamline and expedite the application process and may also increase the number of midwifery applicants.

RCW 18.50.040 details candidate eligibility for licensure for all routes, including education and clinical requirements. The objective of the statute is to ensure only qualified candidates are eligible to be examined for licensure by setting minimum standards for education and clinical practice. The statute also provides a pathway to licensure through the substitution of relevant experience for classroom time. The proposed rules creating the CPM bridging program and amendments to the existing MIT program rules are consistent with the statute's requirements.

In addition to the proposed rule changes needed to implement 2SHB 1773, other sections of the chapter have been opened. The proposed changes will more accurately reflect current practices as well as to update rule language.

Is a Significant Analysis required for this rule?

Yes, the proposed rules require a significant analysis.

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

RCW 18.50.065, as amended by 2SHB 1773, Section 2, directs the department to write rules putting a process in place to bridge the gap between requirements of the nationally voluntary accredited Certified Professional Midwife (CPM) and state requirements for licensure. The proposed rules create the CPM bridging program.

RCW 18.50.135 directs the department to adopt rules as it deems necessary in the administration of the chapter. The objective of other proposed rule changes are to more accurately reflect current practices as well as to update rule language.

RCW 18.50.040 details candidate eligibility for licensure, including education and clinical requirements. The objective of the statute is to ensure only qualified candidates are eligible to be examined for licensure by setting minimum standards for education and clinical practice and providing a pathway to licensure through the substitution of relevant experience for classroom time.

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.

WAC 246-834-060 Initial application requirements for licensure as a midwife, amended

RCW 18.50.135 directs the department to adopt rules as it deems necessary in the administration of the chapter. RCW 18.50.040 details candidate eligibility for licensure, including education and clinical requirements. The objective of the statute is to ensure only qualified candidates are eligible to be examined for licensure by setting minimum standards for education and clinical practice. The proposed rule change accommodates the new CPM bridge program applicants into the initial application process. The proposed rule changes also more accurately reflect current practices as well as to update rule language. The proposed rule is necessary to implement 2SHB 1773. By not adopting this rule, the language remains confusing and does not highlight public safety

WAC 246-834-066, Certified professional midwife (CPM) licensure requirements, new

There are no feasible alternatives to this rulemaking as rules are required by 2SHB 1773. The proposed rules will achieve the authorizing statute's goals and objectives by identifying the gaps between CPM requirements and state requirements for licensure. By not adopting this rule we would not be following statute to allow another pathway to licensure while maintaining a high standard of experience and knowledge of applicants.

WAC 246-834-067, Preceptor for Certified Professional Midwife (CPM) licensure program, new

There are no feasible alternatives to this rulemaking as rules are required by 2SHB 1773. The proposed rules will achieve the authorizing statute's goals and objectives by identifying the gaps between CPM requirements and state requirements, and providing a clear process for applicants to meet licensure requirements for midwives. By not adopting this rule we would not be following statute to allow another pathway to licensure while maintaining a high standard of experience and knowledge of applicants.

WAC 246-834-068, Trainee permit for Certified Professional Midwife (CPM) licensure program, new

There are no feasible alternatives to this rulemaking as rules are required by 2SHB 1773. The proposed rules will achieve the authorizing statute's goals and objectives by identifying the gaps between CPM requirements and state requirements, and providing a clear process for applicants to finalize any licensing requirements. By not adopting this rule we would not be following statute to allow another pathway to licensure while maintaining a high standard of experience and knowledge of applicants.

WAC 246-834-220, Midwife-in-Training program, credit toward educational requirements for licensure, amended

RCW 18.50.135 directs the department to adopt rules as it deems necessary in the administration of the chapter and RCW 18.50.040 details candidate eligibility for licensure, including education and clinical requirements. The objective of the statute is to ensure only qualified candidates are

eligible to be examined for licensure by setting minimum standards for education and clinical practice. The objective of the proposed rule changes are to more accurately reflect current practices as well as to update rule language. By not adopting this rule, the language remains confusing and does not highlight public safety.

WAC 246-834-230, Midwife-in-training (MIT) program – Preceptor qualifications, amended, and

WAC 246-834-240, Trainee permit for midwife-in-training program, amended

RCW 18.50.135 directs the department to adopt rules as it deems necessary in the administration of the chapter and RCW 18.50.040 details candidate eligibility for licensure, including education and clinical requirements. The objective of the statute is to ensure only qualified candidates are eligible to be examined for licensure by setting minimum standards for education and clinical practice. The objective of the proposed rule changes are to more accurately reflect current practices as well as to update rule language. By not adopting this rule, the language remains confusing, non-enforceable and does not highlight public safety.

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.

WAC 246-834-060

Rule Overview: The time between applying for licensure and being allowed to take the exam has been shortened from 56 days to 45 days to align with statute. The elimination of the photograph requirement is an internal process change with no costs required and eliminates the need for the applicant to go have a passport type photo taken. These two changes have no associated costs and make the application process easier and faster for staff and applicants.

The jurisprudence exam will now be a requirement during the application process. Statute requires that midwifery applicants have education in medical and legal aspects of midwifery. Typically applicants have to find and take a course on the medical and legal aspects of midwifery. This costs approximately \$300 per credit. By completing this exam, applicants will become versed in Washington's law and rules, scope of practice, and discipline procedures. This online, open book exam is free of charge, short and will ensure that applicants seeking licensure will be familiar with their scope of practice, testing requirements, renewal requirements, and other pertinent information found in their statute and rules. This will increase public safety and the applicant's knowledge of the laws that are applicable to their practice and discipline. Statute also requires that midwifery applicants have at least three years of midwifery training. The training will now be listed as requirement for the application process.

Rule Cost/Benefit Analysis: There are no additional costs to the applicant to this section. The benefits to the applicant include a more streamlined application process and an easier to meet jurisprudence requirement.

WAC 246-834-066

Rule Overview: The proposed rules will help applicants identify and address gaps in their education and training between the national certification and state requirements. The statute and rule currently outline specific criteria to become a licensed midwife in Washington, i.e., number of observed births, number of women cared for during prenatal, intrapartum, and postpartum periods, and educational requirements. The same standards are required for those coming into state with the national certification.

This new route to licensure allows for a baseline of education and training as determined by national standards and evaluated by appropriately trained staff. Many midwives seek the national certification. In some states, that is all that is required to practice. Writing rules to bridge the gap will make state licensure more accessible to midwives and may increase the number of applicants. The state association believes that we will see fifteen to twenty CPM applicants every year. There is not an additional application cost for applicants coming in with the national credential. They will be allowed to obtain a limited permit, authorizing them to obtain their final licensure components, if applicable.

The costs and time to gain the national voluntary CPM certification is hard to quantify and cannot be accurately estimated because each portfolio is different. There are several routes to receiving the certification, which gives candidates flexibility in meeting their educational and clinical learning needs. They can gain certification through one of five routes:

- Experienced midwife
- Student or Graduate of a Midwifery Education and Accreditation Council Program
- Certified by the American Midwifery Certification Board
- Licensed midwife in approved states
- Internationally educated midwives, or those legally recognized in the United Kingdom

The costs and time associated with obtaining the additional “bridging” components will vary from applicant to applicant. Since many CPMs will have been actively practicing in other states, they will probably not need to obtain additional births or care exams. Also, many CPMs have taken course work at some point, so many may have taken classes in epidemiology, obstetrical pharmacology, and professional issues. If an applicant needs to complete a course, a typical cost to them would be about \$600 per 2 credit class at an accredited school. The applicant also has the option to do a self-study course approved by the department with minimal associated costs. The few components they may need to get are things very specific to Washington, such as the legend drugs and devices in WAC 246-834-250. The amount of time needed to train on the proper usage and dosage of our legend drugs and devices could be taught by the preceptor over the course of several weeks for little or no charge to the applicant.

The department intends to use the CPM process to better establish and calibrate alternative educational requirements towards licensure, while also maintaining a high standard of experience and knowledge for WA licensure. Also, if the proposed rules are not adopted, the department will be hampered in its ability to efficiently, fairly and transparently evaluate and approve individual portfolios for applicants that did not graduate from an approved school. Staff currently spend up to 10 hours evaluating and maintaining applications in the MIT program.

Since the new rules will clearly identify any additional components needed to acquire state licensure after obtaining national certification, staff time will not be spent performing this work.

Multiple stakeholder workshops were held; one in Tumwater, one in Spokane, and one via webinar. Additionally, two opportunities to provide comment were posted through listserv. The expertise of licensed midwives was invaluable throughout the drafting of the rule language and helped to create the final product.

Rule Cost/Benefit Analysis: The benefits of allowing additional routes to licensure, that specifically include the incorporation of a national certification, allows more midwives the opportunity to apply, at a lower cost and also alleviates the departments duty to evaluate every alternative education application.

These proposed changes will reduce barriers to licensing, allow nationally certified midwives to apply for a license at little or no cost, and lower the amount of staff hours evaluating and maintaining individual portfolios.

WAC 246-834-067

Rule Overview: There is no alternative to rulemaking as rules are required by 2SHB 1773. A preceptor is required if the CPM applicant does not meet all state requirements. The preceptor will help them to gain training on the various components needed for licensure under existing rule. The applicant will be able to choose from licensed midwives, physicians or certified nurse midwives for additional birth and care examinations needed. Additionally, they have the ability to choose a preceptor for legend drugs and devices from any Washington licensed practitioner that is qualified in the use and administration of the legend drugs and devices in WAC 246-834-250. Preceptors typically provide the training free of charge.

Rule Cost/Benefit Analysis: The benefit of the rule is that it will allow more categories of providers to serve as preceptors, providing the necessary training to become licensed in Washington. Access to the proper training ensures that licensees are practicing with public safety in mind. There are no costs associated with this section.

WAC 246-834-068

Rule Overview: There is no alternative to rulemaking as rules are required by 2SHB 1773. A trainee permit is needed to accommodate CPM applicants who may need to meet additional licensure components according to Washington requirements. This benefits the applicants by allowing them to receive final training components under the supervision of a preceptor on the path to state licensure.

Rule Cost/Benefit Analysis: These proposed changes benefit CPM applicants by allowing them to receive their final licensure components with a cost-free trainee permit, after completing an initial licensing application and fee. Access to the proper training ensures that licensees are practicing with public safety in mind.

WAC 246-834-220

Rule Overview: This section includes proposed housekeeping changes to make the expectations more clear and transparent and to more closely align with the statute and other routes to licensure. The number of births required has not changed but has been clarified to match other routes to licensure; of the 50 total births required, 30 must be done as the primary attendant and 20 as a directly assisting attendant. It also deletes the challenge examination because the school that offered this in the past is no longer open and the rule should better reflect legitimate offerings available to an applicant. The applicant has many options to fulfill the required components for the program. If these improvements aren't made, the section will continue to provide unclear expectations for MIT applicants. A licensed midwife of the Midwifery Advisory Committee (MAC) has also been added to this section as someone with expertise to evaluate individual portfolios with program staff and make recommendations on the adequacy of the prospectus.

Rule Cost/Benefit Analysis: These proposed changes more clearly state the requirements of the MIT program and make the program less cumbersome for applicants and staff. The loss of the challenge option cannot be calculated as a cost to the applicant because of the closure of the school that offered it.

WAC 246-834-230

Rule Overview: The current rule states that the preceptor must be licensed in Washington with no mention as to the type of credential that is required. The new rule clarifies that the preceptor must be a midwife, physician, or certified nurse midwife licensed in good standing in Washington and have either practiced three consecutive years or attended at least 150 births. The experience requirement for the licensed professionals is a national standard maintained by NARM. The state intends to adopt the same standard for our preceptors. The rule also states that an approved preceptor can be disqualified if they fail to meet the qualifications or responsibilities of their preceptorship. The remaining changes are housekeeping to make the section more clear.

Rule Cost/Benefit Analysis: These proposed changes more clearly state the requirements for a preceptor for the MIT program and make the program more transparent for applicants and staff. With the addition of specific Washington issued credentials that are allowed to supervise MIT students and the required experience to be a preceptor, we are assured the students are practicing with knowledgeable teachers and public safety in mind. The additional experience requirement for preceptors may be considered a cost to someone who wants to be a preceptor, or a midwife seeking a preceptor. However, current language is vague and does not do a good job of ensuring proper training or public safety. Furthermore, the requirement of having 3 consecutive years of practice or at least 150 births ensures that preceptors are well qualified to mentor students. These proposed changes benefit MIT applicants by allowing them to receive licensure components under the supervision of an appropriate preceptor. The total probable benefits of this rule outweigh the total probable costs.

WAC 246-834-240

Rule Overview: The proposed changes include the addition of language to deny, modify or revoke a midwife-in-training permit in the interest of public safety, health and welfare if the trainee fails to comply with the requirements. The remaining changes are housekeeping to make the section more clear.

Rule Cost/Benefit Analysis: These proposed changes more clearly state the requirements for a trainee permit for the MIT program. The addition of the language to deny, modify or revoke a trainee permit in the interest of public safety ensures that students are practicing with public safety, health and welfare in mind. There are no costs associated with this section. These proposed changes benefit the public by ensuring the midwives-in-training are practicing safely.

Cost Benefit Conclusion

As demonstrated above, the proposed rule “Bridges the Gap” between national certification of midwives and license requirements for midwives in Washington State using the CPM process to better establish and calibrate alternative educational requirements towards licensure. The proposed process, however, requires a high standard of experience and knowledge in order to obtain Washington licensure. The MIT program has also been updated to reflect current standards and practice. The addition of a MAC member helping approve applicants prospectus, lessens the burden on staff to determine the adequacy of proposals. This will streamline and expedite the application process and may also increase the number of midwifery applicants.

Although there are nominal costs for midwives to satisfy the requirements of the proposed rule, the benefit of removing barriers to licensure, while maintaining a high standard of expertise and knowledge in the midwifery profession outweigh these costs. Therefore, the total probable benefits of this rule, as described above, exceed the total probable costs.

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 proposed rules were developed collaboratively, with staff working closely with constituents and the public to minimize the burden of this rule. The collaborative process included sending notice of the rulemaking to the listserv and holding three open public rules workshops. The workshops were held in Tumwater, Spokane, and by webinar. All the workshops were posted on the listserv.

WAC 246-834-060 Initial application requirements for licensure as a midwife

In order to make the application process more clear and transparent, some housekeeping was done on this section. The proposed rules were written to include the incorporation of the new CPM route to licensure as required by 2SHB1773 and also to include the requirement of three years of midwifery training and a jurisprudence course on medical and legal aspects, both required by statute. This meets the goals and objectives of the statute by addressing candidate eligibility for licensure. There were no rejected versions.

WAC 246-834-066

In order to bridge the gap and make the application process less burdensome, the rules were drafted to include just the gaps between CPM requirements and state requirements. This meets the goals and objectives of the statute by bridging the gap.

Some of the rejected versions included the requirement for the midwife to perform an additional 60 births on top of the CPM requirements to be eligible for licensure. Many stakeholders maintained that the high number of additional births would be a barrier to applicants.

WAC 246-834-067

The rules were drafted to include options in obtaining the required training. A few versions were considered that limited the type of practitioner that could be used for legend drugs and devices. It was determined that many types of practitioners, not just obstetrical providers, could provide the required training.

WAC 246-834-068

The rules were drafted to closely mimic other trainee permit requirements within the chapter. No alternative versions were considered.

WAC 246-834-220

This section has had some housekeeping done in order to make the expectations more clear and transparent and to more closely align with the statute. No alternative versions were considered. These proposed changes more clearly state the requirements of the MIT program and make the program less cumbersome for applicants and staff.

WAC 246-834-230

This section has had some housekeeping done in order to make the expectations more clear and transparent and to more closely align with the statute. No alternative versions were considered. These proposed changes more clearly state the requirements from someone to serve as a preceptor for the MIT program.

WAC 246-834-240

This section has had some housekeeping done in order to make the expectations more clear, as well as adding the ability to deny, modify or revoke a trainee permit in the interest of public safety. No alternative versions were considered. These proposed changes more clearly state the requirements and add the ability to remove a trainee from the program if warranted.

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.

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.

It was determined that the rule does not impose more stringent performance requirements on private entities than on public entities.

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.

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.