

Significant Legislative Rule Analysis

Chapter 246-811 WAC
A Rule Concerning
Establishing Alternative Training
Chemical Dependency Professionals and
Chemical Dependency Professional Trainees
March 7, 2016

SECTION 1:

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

The proposed rule would create an alternative method for licensed health care practitioners, who hold a credential in a related mental health profession, and whose scope of practice includes treatment of chemical dependency to also get certification as a chemical dependency professional (CDP). These providers are:

- Licensed advanced registered nurse practitioners (ARNP)
- Licensed marriage and family therapists
- Licensed mental health counselors
- Licensed advanced social workers
- Licensed independent clinical social workers
- Psychologists
- Osteopathic physicians
- Osteopathic physician assistants
- Physicians
- Physician assistants

An alternative path to a CDP credential for the above providers includes:

- Fewer formal education requirements (15 quarter or 10 semester hours of education from an approved school, as opposed to 90 quarter or 60 semester hours for traditional certification)
- 1000 hours of supervised experience (hours required for others increases up to 2500 depending on level of formal education (i.e. A.A., B.S., M.S.)) by a CDP. The proposed rule extends this pathway for allopathic and osteopathic physicians and physician's assistants. The other practitioners already qualify for the 1,000 hour supervised experience pathway
- Specified national certifications as acceptable proof of satisfying the CDP educational or experience requirements (e.g. American Society of Addiction Medicine or American Board of Addiction Medicine)

The rule also addresses how the above providers, once successfully certified as a CDP, may become a supervisor of CDP trainees (CDPTs) completing their experience requirements for CDP certification. The proposal requires fewer practice hours that a CDP must accumulate in a state-approved agency, but greater hours of required formal training of CDP supervision than those with traditional certification.

The new requirement to receive supervision from a CDP only applies to health care practitioners using the alternative pathway. Applicants not using the alternative pathway will still be able to receive supervision from someone eligible to sit for the CDP exam, which are the current requirements.

Exams, fees, credential renewals, and continuing education requirements remain the same for all CDPs regardless of their path to licensure.

The goal of the proposed rule-making is to expand the pool of qualified CDPs who are available to provide chemical dependency services to this increasing population seeking services while the state works towards integration of chemical dependency and mental health treatment. The Department of Social and Health Services estimated in 2013 that about 700 additional practitioners trained in chemical dependency treatment will be needed to serve the increase in clients resulting from enhanced treatment coverage under

the federal Affordable Care Act and Medicaid expansion. However, the CDP profession in Washington State is not growing fast enough to meet this demand. The number of certified CDPs has remained fairly static since the department began issuing them in 1999. For example, there are 2,710 active CDPs currently, compared to 2,753 ten years ago.

Integrated care and licensed clinicians trained to treat co-existing disorders are vital for roughly half of people with a substance use disorder (SUD) who have a co-existing mental health disorder¹. People with SUD would be more likely to receive care when more non-CDP providers are trained and credentialed to treat SUD. Of people with a SUD and a co-existing mental health problem, mental health care is three times more available than substance abuse treatment². The proposed rules focus on increasing the CDP workforce and setting competencies for those non-CDP professionals entering the chemical dependency field.

Implementing the Affordable Care Act (ACA, 42 U.S.C 18001) has had a profound effect on how health services will be provided in Washington State. The number of enrollees in Medicaid, through Medicaid expansion, now far exceeds the state's anticipated numbers. Recognizing the shift in the addiction treatment landscape, Dr. David Mee-Lee, chief editor of the ASAM addiction treatment placement criteria, writes, "with health reform, more services to persons with addiction will be delivered outside of a separate specialty treatment system for addiction and will be delivered inside of general medical and general behavioral health settings."³

The department has received numerous complaints that the path to CDP credential is onerous for providers who already hold a credential in a mental health-related profession, and thus creates barriers to these providers being dually credentialed. The department in 2013 began looking at ways to decrease barriers. An alternative training pathway will allow providers – who already have masters or doctorate level training - to get certification without having to attend a traditional CDP educational program. It will also reduce the need for non-CDP providers to close or leave their current practices in order to gain supervised experience in a DSHS-approved chemical dependency agency program under chapter 70.96A RCW. However, these non-CDP providers will gain experience under the supervision of an approved supervisor who has gained experience in a program approved under chapter 70.96A RCW.

The proposed rules were developed with the participation of the department's Chemical Dependency Professional Advisory Committee (committee). Stakeholder workshops were held at committee meetings from April 2014 through April 2015. Working drafts of the rules were posted to the committee's page on the DOH website and were distributed on the committee listserv.

SECTION 2:

Is a Significant Analysis required for this rule?

¹ Katherine M. Harris and Mark J. Edlund (2005). [Use of Mental Health Care and Substance Abuse Treatment Among Adults With Co-occurring Disorders](#). *Psychiatric Services* 56:8 , 954-959.

² Watkins KE, Burnam A, Kung FY, et al (2001). A national survey of care for persons with co-occurring mental and substance use disorders. *Psychiatric Services* 52:1062–1068.

³ Mee-Lee, D. What's new and how to use The ASAM Criteria: Skill-building in implementing the new addition (Pg 8) retrieved from www.changecompanies.net

Yes. Portions of the rule alter the qualifications or standards for issuance of a chemical dependency professional license or permit, and so meet the definition of a legislatively significant rule as defined in RCW 34.05.328(5)(c) and requires a significant analysis.

However, the department has determined that no significant analysis is required for the following portions of the rule:

Table: Non-Significant Rule Identification-Reason

#	WAC Section	Section Title/Subject	Reason
1	246-811-010	Definitions	The proposed changes amend definitions and do not meet the definition of a significant legislative rule.
	246-811-220	Continuing competency program requirements	The proposed changes provide clarification and make other general housekeeping updates without changing the effect of the rule.
2	246-811-030	Educational requirements	The proposed changes provide clarification and make other general housekeeping updates without changing the effect of the rule.
3	246-811-045	Accumulation of experience.	The proposed changes provide clarification and make other general housekeeping updates without changing the effect of the rule.
4	246-811-047	Competency requirements	The proposed changes provide clarification and make other general housekeeping updates without changing the effect of the rule.
5	246-811-048	Supervision requirements	The proposed changes provide clarification and make other general housekeeping updates without changing the effect of the rule.
6	246-811-060	Examination requirements for a chemical dependency certification professional	The proposed changes makes application process changes and other general housekeeping updates without changing the intent of the rule. Subsection (3) is removed to align the proposed rule with changes made by the Department to the processing of applications.

SECTION 3:

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

The general goal of chapter 18.205 RCW is to ensure the availability of chemical dependency (CD) services to those in need. In addition, the secretary has the authority to adopt rules necessary to implement chapter 18.205 RCW to determine whether alternative methods of training are equivalent to formal education, and to establish forms, procedures, and criteria for evaluating an applicant's alternative training. The statute also determines which applicants are eligible to take any qualifying examination, and defines and approves the experience requirement for certification.

The proposed rules would implement the statutory intent by:

- Establishing educational requirements for providers applying with alternative training;
- Clarifying supervised experience requirements;
- Allowing national certification from selected entities to meet the education and experience requirements for a CDP credential, and
- Making general housekeeping and clarification changes.

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 department determined that rules are needed to document clear, concise, and necessary requirements for non-CDP health care practitioners who want to get a CDP credential. Rules are needed to establish an alternative method for these practitioners to demonstrate that they have the education, training, skills, and experiences to safely and effectively provide CDP services. If rules are not adopted, these practitioners who have the ability to treat chemical dependency in their scope of practice would not be able to get certification without having to attend a traditional CDP education program and close or leave their practice in order to gain supervised experience working in a DSHS-approved chemical dependency treatment program under chapter 70.96A RCW currently required to qualify for a CDP credential.

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.

WAC 246-811-046 - Number of experience hours required for certification as a chemical dependency professional.

Aside from housekeeping changes, this section would be amended to add, by reference, the following professions that must complete 1,000 hours of supervised experience before receiving a CDP credential:

- Osteopathic physician credentialed under chapter 18.57 RCW
- Osteopathic physician assistant credentialed under chapter 18.57A RCW
- Physician credentialed under chapter 18.71 RCW
- Physician assistant credentialed under chapter 18.71A RCW

This is in addition to the following professions who must already meet this 1,000 requirement in rule:

- Advanced registered nurse practitioner credentialed under chapter 18.79 RCW
- Marriage and family therapist, mental health counselor, advanced social worker, or independent clinical social worker credentialed under chapter 18.225 RCW
- Psychologist credentialed under chapter 18.83 RCW

The effect of this change would require these health care professionals whose scope of practice includes treatment of chemical dependency to become a CDP with the same number of experience hours. This is the same group of providers allowed an alternative path to licensure in the proposed rule. It is also the same group of providers identified in RCW 18.205.040 that may use their CDP certification outside of facilities or programs approved by the DSHS.

Cost Benefit Summary –For direct costs, according to the Bureau of Labor Statics (BLS) the annual mean wage for chemical dependency professionals is \$43,770 after they received their credential. Based on the information from BLS this may cost the providers about \$600 per year to hire a qualified provider to supervise them.

For individuals seeking the alternative training, the opportunity cost is indeterminate because the costs vary by profession type, availability of qualified supervisors, and other market forces.

The benefit of the rule is that practitioners seeking a CDP credential via the alternative route would gain appropriate knowledge and skills when completing the required supervised hours.

WAC 246-811-049 - Approved Supervisors.

This section is amended to:

- Create an alternative path for CDPs dually credentialed as one of the professions identified above to become an approved supervisor. This alternative path entails:
 - Completion of 1,500 hours of experience in a state-approved chemical dependency treatment agency, in addition to the hours needed to get the CDP.
 - Completion of 28 hours of education specific to supervision; and
 - Completion of 36 hours of education specific to: counselor development, professional and ethical standards, program development and quality assurance, performance

evaluation, administration, treatment knowledge, and Washington State law regarding substance use disorders and treatment.

- Requires that approved supervisors supervising applicants using the alternative pathway must be credentialed as a CDP. Currently, supervisors don't have to have a CDP certification; they only have to be eligible to sit for the CDP exam. The advisory committee believed the supervisor should be only someone credentialed as a CDP.

Cost Benefit Summary –The training courses are typically six hours long and cost \$125. An additional benefit of the rule is the creation of clear guidelines for what is required to be a supervisor in a supervisory experience. For supervisors of applicants using the alternative pathway, the cost to comply with the requirement of being certified as a CDP will cost \$425 for initial licensure and \$230 each year for renewal.

WAC 246-811-070 – National Certification.

This section clarifies the required type of certification from the two listed national organizations that makes CDP credential applicants exempt from the requirement to document their experience and education hours. The rule clarifies that applicants must have the alcohol and drug counselor (ADC) certification or advanced drug counselor (AADC) certification from the International Certification and Reciprocity Consortium (ICRC) when requesting an exemption using the national certification.

The ICRC has several other lower levels of credentialing available. This clarification in rule is needed to ensure the individual is competent to provide substance use disorder treatment services.

Cost Benefit Summary: If providers did not have the AADC or ADC certification, then they would need to obtain and incur the cost associated with getting one of those certifications, or use another method to apply for a CDP credential. The cost of certification ranges from \$150 to \$220. National certification renews every two years and the price ranges from \$125 to \$225. CDPs are not required to maintain an active national certification to renew their credentials.

The benefit of the rule is that providers who have gotten their national ADC or AADC certification are recognized for their accomplishment, and do not have to complete redundant experience and education hours to qualify for a CDP credential.

WAC 246-811-076 – Persons eligible to apply for certification with alternative training.

This section establishes the list of non-CDP health care practitioners who may apply for CDP certification by alternative training. The list of professionals intentionally matches in statute the providers who may use the CDP designation outside of an approved chemical dependency treatment agency. It would also require the applicant for CDP to have an active credential in good standing in their other profession in order to apply with alternative training.

Cost Benefit Summary: The rule acknowledges applicants' existing knowledge and skills in mental health. There are no costs to comply with this proposed rule. It is the providers' choice to apply for a CDP credential using the alternative method. It is not a requirement. The public benefits from requiring practitioners to have an active license in good standing and be qualified to provide chemical dependency counseling.

WAC 246-811-077 - Educational requirement to apply for chemical dependency certification with alternative training.

This proposed new rule would set the educational qualifications for the categories of applicants who are eligible to apply for certification using alternative training.

Applicants must complete 15 quarter or 10 semester college credits in courses from an approved school, demonstrating completion of the following topics specific to alcohol- and drug-addicted individuals:

- Survey of addiction;
- Treatment of addiction;
- Pharmacology;
- Physiology of addiction;
- American Society of Addiction Management (ASAM) criteria;
- Individual group, including family addiction counseling; and
- Substance abuse disorder law and ethics.

The topics listed above were determined necessary for these providers to complete in order to provide CD services consistent with that of a CDP who was credentialed through the standard process.

Cost Benefit Summary – It is the applicant’s choice to seek the credential using alternative training. The CDP licensure costs are the same for all applicants, including applicants using the alternative training. Initial licensure costs \$425 and annual renewals cost \$230.

Many non-CDP providers would have already completed many of the required elements for obtaining a CDP credential within their health care profession academic programs. Applicants who needed to complete additional coursework in the rule could take it at a local community college. The average cost is \$70 per credit, for community colleges in Washington. If the provider had to take all 15 credits it would cost \$1,050. This is a cost savings because non-CDP providers would not be required to take an entire program when applying by the alternative method. An entire program would cost about \$3,150. The proposed rule provides a decreased cost to non-CDP providers seeking a CDP credential. The benefit of the rule is that applicants can demonstrate they have received education that will ensure competence when providing services to clients.

WAC 246-811-078 - National Certification acceptable for alternative training.

This proposed new rule lists multiple national certifications that would be accepted in lieu of the education and supervised experience requirements needed to get a CDP. The department developed this list with input from the advisory committee and stakeholders.

Cost Benefit Summary – It is the applicant’s choice to seek the credential using a national certification in lieu of the education and experience requirement to obtain a CDP credential. It is not a requirement. The CDP licensure costs are the same for all applicants, including applicants using the alternative training. Initial licensure costs \$425 and annual renewals cost \$230.

The cost of getting national certification ranges from \$100 to \$425. Applicants must arrange for the certifying body to send verification of status directly to the department. There will be the nominal cost for the applicants to coordinate this process. The benefit of listing the acceptable certifying agencies is that it

makes it clear to practitioners which certification would be acceptable. Patients would benefit by having a CDP providing substance use disorder counseling whose training meets national certification standards.

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.

Department staff worked closely with the advisory committee, constituents and the public to minimize the burden of this rule. The committee held open public rule workshops in coordination with its committee meetings. All people on the department's CD ListServ were invited to participate. The meetings were also made available via phone and rule documentation was sent out to interested parties prior to the meeting.

Some non-CDP practitioners who can provide SUD services believe the current rules are inadequate or onerous because they can already provide services within their scopes of practice, have already gotten a higher level education, and are currently providing services to the public.

The department considered the recommendations of the advisory committee when drafting the proposed rules. The committee does not believe that the alternative versions of the rule provided enough safeguards to protect the public, and could in fact lead to public harm, by allowing unqualified providers to get their CDP.

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

- Allowing CE to count toward the educational requirements for alternative training. Some stakeholders believed that 100 hours of continuing education should be able to count toward the educational qualifications to get the CDP credential. The department determined there are too many variables in the quality of continuing education and does not ensure that the provider is competent to provide services.
- Allowing all of the experience hours for a supervisor to be obtained outside of an approved agency. Since many of the providers using the alternative training may be in private practice, the department believed that gaining experience in an approved agency is necessary to ensure competence.

The amendments to this rule provide the least burdensome approach for select non-CDP health care practitioners who have mental health treatment training to obtain a CDP credential. It requires a reasonable amount of additional chemical dependency training to supplement their existing knowledge and skills. For that reason, the department believes the proposed rule is the least burdensome alternative.

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 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 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 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.

The department worked closely with DSHS to ensure that the proposed rule did not conflict with their rules regarding chemical dependency treatment programs.