

Significant Legislative Rule Analysis (SA)

Certified Reflexologists

Chapter 246-831 WAC

March 26, 2013

In 2012, Engrossed Substitute Senate Bill (ESSB) 6103 (chapter 137, Laws of 2012) provided the authority and directed the Department of Health (department) to establish education, exam, work space health and sanitation requirements, and facility standards for the practice of reflexology in Washington State.

Reflexology is an ancient art that involves stimulating the body's own healing mechanisms by applying pressure to reflex points on the hands, feet, and the outer ears based on reflex maps. Following illness, stress, or injury the body can stay in a state of "imbalance" and vital energy pathways can be blocked, preventing the body from functioning effectively. Pressure applied to reflex points relay a message to the corresponding body system, or organ, to restore and maintain the body's natural equilibrium, or balance, and encourage healing. Among many benefits, reflexology can improve immune system function, assist the body in detoxification, reduce stress, and restore energy flow and balance.

Reflexology careers have been gaining popularity and continue to grow. With the current wellness boom in the United States, reflexology has earned a place at the forefront of alternative therapies for its effectiveness in reducing stress and relieving a number of common health problems, including chronic pain, allergies and digestive issues.

According to Medical-Career-Training.com, reflexologists earn an average annual salary of \$30,000. Salary.com indicates that reflexologists typically charge between \$40 and \$80 per one-hour session, with 90-minute sessions ranging from \$60 to \$110

Section 1. What is the scope of the rule?

The proposed rules describe the credentialing requirements to practice reflexology in Washington State. These requirements include: completion of approved reflexology education program, completion of examination approved by the secretary, completion of a jurisprudence examination, and completion of four hours of AIDS education and training.

The proposed rules address applicants licensed in another state, application documents submitted in a foreign language, a requirement to display the credential at the principal place of business, eligibility for examination waiver, and approval of schools and apprenticeship programs including curriculum and faculty. The proposed rules also address sanitation, equipment, and facility standards to provide tools for the regulatory agency to make reasonable inspections of the premises in which services are being provided.

Section 2. What are the general goals and specific objectives of the proposed rule’s authorizing statute?

In 2012, ESSB 6103 provided the authority and directed the department to establish rules for the practice of reflexology therapy in Washington State. The legislature found it necessary to license the practice of massage and massage therapy and certify persons practicing reflexology in order to protect the public health and the victims of human trafficking.

Section 3. What is the justification for the proposed rule package?

The purpose of this legislation was twofold. It was the legislature's intent that only individuals who meet and maintain minimum standards of competence and conduct may provide services to the public. It was also intended to provide additional tools so the regulatory agency has authority to make reasonable inspections of the premises in which services subject to this chapter are being provided. This would allow the department to determine whether the services are being provided in compliance with this chapter and to support state investigations of human trafficking and other illicit activity.

Section 4. What are the costs and benefits of each rule included in the rules package? What is the total probable cost and total probable benefit of the rule package?

Aside from WAC 246-831-010, which summarizes the credentialing requirements, there are a total of 9 rules (WAC) in this proposed rule package that can be analyzed in four groups:

- 1 - Education and school approval,
- 2 - Examination,
- 3 - Equipments and facility standards, and
- 4 - Advertising.

It is important to note that the costs associated with the proposed rules are all considered costs of business and not compliance costs. Application and renewal fees are the only compliance costs associated with the proposed rules.

Group 1, Education and school approval:

- WAC 246-831-020 Documents in a foreign language
- WAC 246-831-040 Educational requirements
- WAC 246-831-070 Applicants licensed in another state
- WAC 246-831-100 Approval of school, program, or apprenticeship program

Although all four rules in this group are significant, WAC 246-831-040 (education requirements) is the one that involves substantial costs. Costs associated with translating documents in a foreign language, licenses from another states, and school approval are expected to be minimal compared to education costs.

Education and training in reflexology includes a minimum of two hundred (200) hours of instruction. One hour of instruction is defined as fifty minutes of actual instructional time. The two hundred hours shall consist of the following:

- a) Thirty hours of reflexology, theory, history, zones, reflex points & relaxation response, and contraindications;
- b) Forty hours of the study of body systems as related to reflexology; the study of the leg, feet, hands and outer ears as structures; hands-on palpation of landmarks with sensory identification of palpated areas; a map of reflexes as they are anatomically reflected on the feet, hands and outer ears; and how the reflexes are affected by stimulation to the feet, hands and outer ears through hands-on experience;
- c) Thirty hours of anatomy and physiology;
- d) Five hours of business practice involving ethics, business standards and local/state laws and ordinances pertaining to the practice of reflexology;
- e) Twenty-five hours or more of supervised practicum or clinical work; and
- f) Seventy hours of additional homework hours that can include giving and documenting client sessions as well as other written work.

According to Natural Healing and Massage Schools publication, Reflexology school programs generally take between six and twelve months to complete and involve 150 to 300 hours of study combined with hands-on practice. Some schools offer online as well as traditional classroom programs to meet course work requirements. The costs are expected to be approximately \$1,500 to \$3,500. As part of the education, student also need to purchase a massage table or reclining chair, which typically costs \$200 to \$500. (<http://www.naturalhealers.com/qa/reflexology-career.html>)

According to the American Reflexology Certification Board (ARCB), reflexology training in conjunction with a massage school requires special attention. Many massage schools teach foot massage and not reflexology, which has a different history, uses different techniques, and is considered a separate discipline. This is a good example where the instructor's training and education is crucial. For a course within a massage school a total number of 110 hours devoted strictly to reflexology are recommended in order to qualify for ARCB testing upon completion.

Group 2, Examination

- WAC 246-831-050 Examination
- WAC 246-831-060 Waiver of examination

The ARCB currently charges \$295 for the reflexology examination and additional charges for specific retake exams. For Washington reflexology applicants, the ARCB will administer and only charge for the written examination. All applicants must take and pass the ARCB written examination or another examination approved by the secretary. Applicants are also required to take and pass a no-cost, online jurisprudence examination, administered by the department.

According to ARCB, the written exam fees are as follows:

Exam fee: \$250

Retake any one part of the written exam: \$75

There is a \$50.00 non-refundable processing fee. If an applicant fails an exam they will have the option of a refund, less the \$50.00 processing fee, or they may reschedule the testing within 2 years. If the applicant does not take the exam within the two-year period no refund is available. The applicant has the option of retaking an exam at the next exam date in their location, or they may choose another location from ARCB website. http://arcb.net/cms/?page_id=925

An examination waiver would result in cost savings for persons eligible for a waiver of the examination.

Group 3: Equipment, sanitation, and facility standards

WAC 246-831-080 Equipment and sanitation.

WAC 246-831-090 Health, sanitation, and facility standards.

All schools, programs, and apprenticeship programs must have adequate facilities and equipment available for students learning reflexology. All facility equipment must be maintained in accordance with local rules and ordinances in addition to those imposed by chapter 246-831 WAC. Instructional and practice equipment must be similar to that found in common occupational practice. Although fulfilling requirements for the above two significant rules cost reflexologists, it is important to note that these are costs of business and not compliance costs.

Group 4: Advertising

WAC 246-831-030

A certified reflexologist must conspicuously display his or her credential in his or her principal place of business. Also, the reflexologist's name and Washington certification number must conspicuously appear on all of the reflexologist's advertisements. While this rule is a significant one, it would not impose conceivable costs to the profession.

Rule Package Cost-Benefit Conclusion

In the practice of reflexology, there are reflex points and areas on the feet and hands that correspond to all the major organs, glands and body parts. Sensitive and trained hands of the reflexologist can detect imbalances or small deposits in reflex points in the feet and by working these points blockages can be released and restore the free flowing energy to the whole body.

The proposed rules allow only individuals who meet and maintain minimum standards of

competence and conduct to provide services to the public. The proposed rules also provide additional tools so that the regulatory agency has authority to make reasonable inspections of the premises in which services are being provided in order to determine whether the services are being provided in compliance with this chapter and to support state investigations of human trafficking and other illicit activity.

Section 5. What alternative versions of the rule were considered? Is the proposed rule the least burdensome approach?

Department staff worked closely with constituents and the public to minimize the burden of this rule. The department used a collaborative rule making approach. The department held public rules workshops in Tumwater on July 30, 2012, September 28, 2012, and February 19, 2013. In addition to stakeholder meetings, draft rule language was distributed through the rule writing process for public comment through list-serv. The department reviewed and discussed all comments and public input received during their public rules workshops.

Descriptions of alternatives considered

When the legislation was proposed last year, department staff spoke with the Washington Reflexology Association about the licensing examination requirement. The department learned a national examination, administered by ARCB is available to meet the testing requirement. The draft rule language required all applicants to take and pass the ARCB examination or an examination approved by the secretary. RCW 18.108.074 gives the Secretary of Health the authority to approve an examination prepared or administered, or both, by a private testing agency or association of licensing boards for use by a reflexology applicant in meeting the certification requirement. During discussions with stakeholders, the department learned several stakeholders did not support using the ARCB examination for the licensing examination. The reasons for opposing the ARCB include: the ARCB is not representative of all reflexology training; the exam evaluates only the American Standard “thumb finger walking” technique, other techniques taught include thumb rotating and Asian Reflexology; the exam is currently given in Washington State once a year.

The department also considered other options such as:

- Developing and administering a jurisprudence examination to test applicant’s knowledge of Washington State law. This approach would be the least burdensome on applicants. The cost to administer the exam would be minimal. However, administering only a jurisprudence exam may not meet the intent of the law.
- Develop a didactic examination to test applicants’ fitness to practice reflexology. The department would need to contract with a specialist to develop the examination. The examination could be offered more frequently than a national examination. This proposal may be less burdensome than the national examination and may be able to incorporate multiple reflexology training techniques. However, existing staff do not have the expertise to develop a psychometrically valid or legally defensible examination. Also, the examination would not be ready before July 1, 2013, delaying implementation of the law.

- Allow reflexology schools and training programs to develop their own exam(s) to test the candidate's minimal skills and knowledge of reflexology. An examination provided by an approved school may provide some assurance that the applicant has the skills and knowledge of reflexology. However, the law does not appear to allow the department to delegate to schools the examination preparation and testing of candidates.

Least burdensome determination

The department contacted the ARCB and shared the stakeholders concerns regarding offering the ARCB examination. For the following reasons the department has determined that the ARCB exam being offered in Washington is the least burdensome alternative.

The ARCB agreed to remove the practical portion of the exam and only provide a written exam to applicants from Washington. The hands-on portion of learning reflexology can be taught in reflexology approved programs/schools. The written exam tests aptitude for the basic standard practices of reflexology and the exact educational subjects that the new law is requiring (reflexology theory, history, zones, reflex points, relaxation response, contraindications, anatomy and physiology, etc). The ARCB is an independent testing agency and is not affiliated with any school or educational program which meets the requirements of the new law. The national certification exam is well known by the profession.

The ARCB exam is currently administered in Washington State once a year. The closest alternate exam location is California. The testing company is willing to test in Washington more frequently if there are six or more applicants.

Stakeholders also expressed concerns that the \$295 exam fee is too expensive. The ARCB has agreed to reduce the \$295 exam fee to \$250 since they will only be administering the written exam for Washington applicants. At this time the ARCB exam is the most cost effective. The department does not have staff with the expertise to develop a psychometrically valid or legally defensible examination. The department would have to contract with an organization or person who has the skills and knowledge necessary to write examinations. The department estimates the initial cost to develop the exam would be \$30,000. Ongoing maintenance will be required to keep the examination current. Estimated biennial maintenance costs would be \$10,000 - \$15,000. The examination may not be ready before July 1, 2013, delaying implementation of the law.

Section 6. Does the rule require anyone to take an action that violates 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 7. Does the rule impose more stringent performance requirements on private entities than on public entities, unless the difference is required in federal or state law?

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

Section 8. Does the rule differ from any federal regulation or statute applicable to the same activity or subject matter and, if so, is the difference 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 9. Has the rule has been coordinated, to the maximum extent possible, with other federal, state, and local laws applicable to the same activity or subject matter?

There are no other applicable laws.