



Concise Explanatory Statement

Summary of comments and agency responses regarding proposed rules filed under WSR 20-07-128.

Effecting Chapters 246-804, 246-809, 246-810, and 246-811 WAC, and WAC 246-924-990.

TOPIC / CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
Temporary Licensure	The Department of Health (department) should expedite temporary licenses in Washington State during the COVID-19 public health emergency.	<p>The department is addressing licensure issues related to the COVID-19 public health emergency in coordination with the Office of the Governor. The rule is confined to implementing legislation passed during the 2019 legislative session which does not include temporary licensure issues.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
Reciprocity and Telehealth	<p>Comments in support of implementing a reciprocity program in the proposed rule to facilitate the licensing of behavioral health professions coming from other U.S. states or territories. Implementation of the proposal should occur as soon as possible given the increased need resulting from the COVID-19 public health emergency, especially for those behavioral health professionals working in Oregon and Idaho close the Washington border.</p> <p>Commenters also expressed that, due to the inability to see clients in person because of COVID-19, restrictions to telehealth services should be relaxed or removed for behavioral health professionals.</p>	<p>The statute requires for the reciprocity program and probationary licensure to apply to behavioral health professionals coming into Washington to work in agencies licensed by the state. The scope of the rule does not include telehealth services for practitioners residing in other states or territories. The statutory effective date on the major parts of the adopted rule is July 1, 2020. Per the Administrative Procedures Act (chapter 34.05 RCW) an adopted rule becomes effective 31 days after filing with the Office of the Code Reviser unless it meets certain criteria, which the department believes it does not.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
Reciprocity and Probationary Licensure - WAC 246-908-095 - WAC 246-811-300	What criteria will the Department of Health use to determine whether a probationary licensee must complete additional hours of supervised experience while working under a probationary license?	<p>Similar to processing an initial application for full licensure, the department will determine for the probationary licensee the deficiencies in experience or education before Washington State full licensure standards are met. Any deficiencies must be addressed in order to obtain full licensure once the probationary license expires.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>

TOPIC / CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
<p>Reciprocity and Probationary Licensure</p> <p>General</p>	<p>According to statute, probationary license holders may only practice in a behavioral health agency. During the workgroup meetings to develop the rule, the department stated it would not monitor whether or not a probationary licensee is practicing in a behavioral health agency, but address it as a disciplinary matter on a case-by-case basis. Why is this policy not included in the rule proposal?</p>	<p>The statute clearly limits probationary license holders practice to a licensed behavioral health agency. Any complaints the department receives about licensees practicing outside of that requirement will be reviewed and action could be taken.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
<p>Waiving supervised experience requirements for licensure in certain circumstances</p> <p>- WAC 246-809-130 - WAC 246-809-230 - WAC 246-809-330 - WAC 246-811-045</p>	<p>The proposed rule allows applicants for a behavioral health license or credential seeking equivalent licensure in Washington to waive the supervised experience requirement if they can show they have held a license in another state or territory for five or more years, provided the applicant has no disciplinary record or disqualifying criminal history.</p> <p>What criteria will the Department of Health use to determine how much supervised experience a probationary licensee with fewer than five years of experience will need to obtain full licensure?</p>	<p>As stated in the agency response in the last row on page one of this document, probationary licensees working in Washington through the reciprocity program must eventually meet all the same licensing requirements as other applicants for full licensure for that profession. As part of the process for probationary licensure, the department will determine the necessary post-graduate supervised experience still required to meet full licensure requirements. This will be done on a case-by case basis and the applicant will be given notice through a statement of deficiency.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>
<p>Co-occurring Disorder Specialist Enhancement –</p> <p>General</p>	<p>Will those already holding a behavioral health license and a Substance Use Disorder Professional credential be required to obtain an enhancement in order to perform the worked described in RCW 18.205.105 and proposed Chapter 246-804 WAC?</p> <p>It will be challenging to adequately train people to perform the work of a co-occurring disorder specialist enhancement in 60 hour given the complexities of understanding the American Society of Addiction Medicine (ASAM) guidelines.</p>	<p>No, the enhancement is not required for those holding an SUDP credential and who also meet the licensure requirements of RCW 18.205.105(1).</p> <p>The statute requires not more than 60 hours of training. The rule must work within that time frame.</p> <p><i>Was the rule changed as a result of these comments?</i> No</p>

TOPIC / CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
<p>Co-occurring Disorder Specialist Enhancement – Approved Supervisors</p>	<p>“Approved supervisor” should be defined in proposed WAC 246-804-020. An underlying mental health license or degree should not factor into the allowance to supervise applicants for this enhancement. Supervision should only be from a certified Substance Use Disorder Professional (SUDP).</p>	<p>RCW 18.205.105(6) requires an approved supervisor to not only to meet or exceed the requirements to obtain an SUDP credential, but also be eligible to take the examination required for an SUDP credential. This effectively limits eligibility of an approved supervisor of someone working towards a co-occurring disorder specialist enhancement to SUDPs.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
<p>Co-occurring Disorder Specialist Enhancement - WAC 246-804-030</p>	<p>Regarding the application process, why are the required training standards, proposed curriculums, and examination requirements to obtain this enhancement not included in the proposed rule?</p>	<p>Given that the statute already contains a very specific framework for the curriculum the department thought it wise to develop further details related to training standards, curriculum and examination inside the contracting process with educational institutions. This approach is far more nimble as it allows appropriate detail adjustments in training to take place as standards evolve, without delays triggered by the need to go through rulemaking to adjust this type of detail.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
<p>Co-occurring Disorder Specialist Enhancement - WAC 246-804-040</p>	<p>May a co-occurring disorder specialist continue to treat a client with an ASAM assessment of 2.1 or higher if a reasonable effort to refer the client was unsuccessful?</p>	<p>Yes, WAC 246-804-040 will allow a co-occurring disorder specialist to continue to treat a client with an ASAM assessment of 2.1 or higher provided the specialist documents a reasonable effort to refer the client to a more appropriate care setting, and further documents the level of care moving forward in the clinical record.</p> <p><i>Was the rule changed as a result of these comments? No</i></p>
<p>Co-occurring Disorder Specialist Enhancement - WAC 246-804-040</p>	<p>Regarding ASAM requirements, because certain agency affiliated counselors without a behavioral health license are eligible to obtain this enhancement, the general term “licensee” should be replaced with “clinician.”</p>	<p><i>Was the rule changed as a result of these comments? Yes</i></p> <p>The department agrees the term “licensee” as used in this section may be interpreted to exclude qualifying agency affiliated counselors and has replaced “licensee” with “co-occurring disorder specialist” in WAC 246-804-040(1) of the adopted rule.</p>
<p>Co-occurring Disorder Specialist Enhancement- Amending Ch 246-341 WAC</p>	<p>Section 29 of Engrossed Substitute Senate Bill 1768 requires the department to amend WAC 246-341-0515 in order to allow co-occurring disorder specialists to practice and bill in behavioral health agencies. There is concern that with delays caused by the COVID-19 public health emergency, agencies will be unable to encourage employees to obtain and provide the services allowed by the enhancement.</p>	<p>While departmental rules regarding behavioral health agencies are still being developed and adopted, the department will establish an interpretive statement regarding WAC 246-341-0515 to allow for co-occurring disorder specialists to provide substance use disorder counseling services subject to the limitations in RCW 18.205.105. The statement is anticipated to be in effect July 1, 2020 and will remain in place until rules are adopted accordingly.</p>

TOPIC / CITATION	COMMENTS ON PROPOSED RULES	AGENCY RESPONSE
		<i>Was the rule changed as a result of these comments?</i> No
Substance Use Disorder Professionals (SUDP), Approved Supervisors - WAC 246-811-049	To become an SUDP approved supervisor, the proposed rule doubles the number of hours of experience required for Master’s level clinicians holding an SUDP credential – increasing from 1500 hours to 3000 hours. For all other SUDP credential holders, the hours to become an approved supervisor would be reduced from 4000 hours to 3000 hours. The need for supervisors in the field is dire. The experience hours should be set at 2500 instead of 3000.	To create a single set of requirements to become an SUDP approved supervisor as directed by statute, the department increased the hours for Master’s level clinicians holding a SUDP credential but added the flexibility to substitute 1500 of the 3000 required hours with educational courses in supervision. The department determined this was the best compromise while still reducing required hours from 4000 to 3000 for SUDPs who obtained their credential through the “regular” path (i.e. not at the Master’s level), which represents the majority of all credential holders. <i>Was the rule changed as a result of these comments?</i> No
Agency Affiliated Counselors - WAC 246-810-015	Comments in support of the proposed rule to allow AACs 90 days to complete any outstanding licensure deficiencies while continuing to work at a state agency.	<i>Was the rule changed as a result of these comments?</i> No