

Significant Legislative Rule Analysis

Chapter 246-805 WAC
Concerning Applied
Behavior Analysis.

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SECTION 1

A brief description of the proposed rule including the current situation/rule, followed by the history of the issue and why the proposed rule is needed.

There are three Applied Behavior Analysis (ABA) license types addressed in this rule: The licensed behavior analyst (LBA), the licensed assistant behavior analyst (LABA) and the certified behavior technician (CBT). The rules, effective in 2017, have a general rule section that applies to all professions, along with licensure sections for each license type. The Department of Health (department) has identified issues which show the rules are not always understood by applicants and licensees, as well as the need to address a wide variety of licensure issues. After a consultation with the applied behavior analysis advisory committee (committee), the department decided to open chapter 246-805 WAC to update and clarify licensure issues. Specifically, the department is updating definitions, licensure requirements, licensure standards and continuing education requirements.

RCW 18.380.050(3) allows certification by a national accredited professional credentialing entity (professional credentialing entity) in lieu of specific requirements. The department currently only accepts certifications from the Behavioral Analyst Certification Board (BACB) to be used toward meeting licensure requirements. Additional professional credentialing entities now exist, which also issue certifications. However, certification outside of BACB cannot be used toward licensure because current rules reference only the BACB. The proposed rule establishes standards for all professional credentialing entities. This will allow the department to accept certifications from other professional credentialing entities while maintaining standards and protecting the public.

RCW 18.380.050(1)(a)(iv) requires successful completion of an examination approved by the department. The current rules identify the approved examination as the Board Certified Behavior Analyst (BCBA) examination offered by the BACB. The proposal allows any examination offered by a professional credentialing entity that meets the department's requirements. Currently, BCBA is the only examination allowed under the rules, thus all applicants need to meet BCBA requirements in order to take the examination and become licensed. The department is proposing to add LBA requirements into rule.

There are three proposed sections of new rule which reflect BCBA requirements for the number of hours required in Washington. These sections include: recognized education programs, classroom topics, and supervision. While they appear as newly created requirements, they are a reflection of BCBA standards in place when the current rule was established.

The proposed rules update continuing education (CE) requirements. First, the proposed rules repeal the AIDS education requirement in order to align with Engrossed Substitute House Bill (ESHB) 1551 (chapter 76, Laws of 2020) which repealed RCW 70.24.270. The repealed law required each disciplining authority to have rules that required AIDS education. Second, the proposed rules establish health equity (CE) requirements to comply with Engrossed Substitute Senate Bill (ESSB) 5229 (chapter 276, Laws of 2021) codified as RCW 43.70.613. RCW 43.70.613 directs the department to adopt model rules for health care providers required to complete CE to complete health equity CE training at least once every four years. Model rules were adopted in WAC 246-12-800 through 246-12-830 to establish the training requirements. Specifically for ABA professionals the department determined, with input from interested parties, that the model rules adequately meet the needs of these professionals and that the new CE credits could be counted toward the existing total number of CE hours required. The health equity CE requirements apply to LBAs and LABAs only. CBTs are not required to complete CE.

Other changes in the proposed rule include a temporary license and a license based on reciprocity. The department found the need to expand and establish these additional routes to licensure, partly due to issues faced during the Coronavirus disease 2019 (COVID 19) pandemic. This proposal also establishes fees for each new license , as well as to reduce fees for duplicate licenses and license verification. The proposed rule would align with agency standards established for licensure fees for all profession types.

SECTION 2

Significant Analysis Requirement

As defined in RCW 34.05.328, portions of the rule require significant analysis because they meet the definition of a legislatively significant rule.

The following SA Table 1. identifies rule sections or portions of rule sections that have been determined exempt from significant analysis based on the exemptions provided in RCW 34.05.328(5) (b) and (c).

SA Table 1. Summary of Sections not requiring Significant Analysis

WAC Section and Title	Description of Proposed Changes	Rationale for Exemption Determination
WAC 246-805-010 Definitions	Amends and deletes several definitions and adds other definitions. These definitions are used throughout the rules.	The proposed amendments to this section are not considered significant legislative action. As defined in RCW 34.05.328(5)(c)(ii) definitions can be considered an interpretive rule as they do not set standards for compliance
WAC 246-805-020 Supervision disclosure.	Repealing section and placing requirements into other sections.	The proposed repeal of this rule is not subject to significant analysis under RCW 34.05.328(5)(b)(iv) as the amendments are considered clarifying without changing its effect.
WAC 246-805-210 Licensed assistant behavior analyst – Recognized educational programs.	Corrects a typographical error in the name of an accreditation council.	The proposed rule is not subject to significant analysis under RCW 34.05.328(5)(b)(iv) as the amendment corrects typographical errors, without changing its effect.
WAC 246-805-325 Certified behavior technician - Definitions for continuing supervision.	Adds a definition section for WAC 246-805-330 which describes continuing supervision for CBTs.	This section is not a significant legislative rule as defined in RCW 34.05.328(5)(c)(ii) as a

		definition is considered an interpretive rule.
WAC 246-805-520 Temporary License	Establishes the process to apply for and receive a temporary license. This applies to an LBA from another state who has clients that move to WA that need continued therapy on a temporary basis while looking for a WA therapist.	This section is not by definition a significant rule, rather it is a procedural rule as defined under RCW 34.05.328(5)(c)(i) (i), A "procedural rule" is a rule that adopts, amends, or repeals...(B) any filing or related process requirement for making application to an agency for a license or permit...
WAC 246-805-990 Applied behavior analysis fees and renewal cycle	Adds fees for expired license reissuance and a new temporary license.	Fee changes are exempt under RCW 34.095.328(5)(b)(vi). No significant analysis is required.

SECTION 3

Goals and objectives of the statute that the rule implements.

The intent of chapter 18.380 RCW is to protect the public from potential harm from the unregulated practice of ABA. The statute created three health profession credentials, LBA, LABA, and CBT, with the objectives of setting minimum education, training, and practice standards that demonstrate competence to safely provide ABA services to the public.

RCW 18.380.050 gives the department authority to adopt rules to approve degree programs for LBAs and LABAs and training programs for CBTs, require specific topics in behavior analysis topics for LBAs and LABAs, and to approve the examination for LBAs, and allows the department to accept certification by a professional credentialing entity in lieu of specific requirements.

RCW 18.380.110 gives the authority for the department, in consultation with the committee, to adopt rules necessary to implement the chapter, including establishing continuing competency as a condition of license or certification renewal, establish standards of delegation and supervision of LABAs and CBTs, and to define tasks that a certified behavioral technician may perform.

RCW 18.122.050 gives the department the authority to establish all credentialing, examination, and renewal fees in accordance with RCW 43.70.250. RCW 43.70.110 requires the department to charge fees for obtaining a license, while RCW 43.70.250 requires the cost of each professional licensing program be fully borne by the members of that profession.

ESHB 1551 removed the requirement for AIDS education giving the department the authority to remove this requirement in rule.

RCW 43.70.613(1) requires each health care professional credentialed under RCW 18.130.040 with a CE requirement to adopt rules requiring completion of health equity CE training at least once every four years. RCW 43.70.613(3) also directs the department to establish model rules creating minimum standards for health equity CE training programs. All rules adopted by each health profession must meet or exceed the minimum standards established in the model rules. The goal of health equity CE training is to equip health care professionals with skills to recognize and reduce health inequities in their daily work. The content of the health equity trainings include instruction on skills to address structural factors such as bias, racism, and poverty, which manifest as health inequities.

SECTION 4

Explanation of why the rule is needed to achieve the goals and objectives of the statute, including alternatives to rulemaking and consequences of not adopting the proposed rule.

Rulemaking is necessary to establish enforceable standards for licensure of the LBA, LABA and CBTs that assure the practitioners possess the minimum knowledge to practice safely. The rules also provide clear and consistent guidance to persons seeking and maintaining an applied behavior analysis credential. Rulemaking provides applicants and other interested parties with a description of the education, supervision and continuing competency requirements.

Adopting requirements for health equity CE in rule achieves the authorizing statute's goals and objectives by providing requirements that are clear, concise, and necessary to ensure patient safety. A fee rule is established as required in rule to be enforceable and to assure the program is self supporting.

SECTION 5

Analysis of the probable costs and benefits (both qualitative and quantitative) of the proposed rule being implemented, including the determination that the probable benefits are greater than the probable costs.

WAC 246-805-025 Approval of national accredited professional credentialing entities. [New Rule]

Description: The current rules implement RCW 18.380.050(3) by recognizing the Behavior Analyst Certification Board's certifications and registration as meeting the requirements for licensure. The department is aware that there are two other national organizations that also issue ABA certifications and registrations and would like to also be recognized. The proposed rule clarifies and expands approved professional credentialing entities that issue certifications and registrations to professional practitioners of ABA by:

- Establishing requirements for a professional credentialing entity to be approved by the department as allowed in RCW 18.380.050(3).
- Expanding credentialing to additional credentialing entities that meet criteria set forth in rule. Currently the only approved credentialing agency is BACB.

Cost(s): The department does not anticipate additional costs. The proposed rule does not add additional requirements for applicants. The proposed rule expands access to individuals who hold a certification from credentialing entities that meet the requirements.

Benefit(s): The potential effect of this change is to allow for additional routes to licensure, through department approved professional credentialing entities, and reduces barriers to licensure without reducing patient safety.

WAC 246-805-100 Licensed behavior analyst – Application requirements.

Description: The proposed rule amendment clarifies existing application requirements to apply for a LBA credential. Amendments include:

- Removes the requirement for AIDS continuing education to match the changes in ESHB 1551.
- Changes the acceptance of the BCBA certification toward licensure to any equivalent certification from a department approved professional credentialing entity.
- Clarifies that the required master's degree meets the requirements of new section 246-805-110.

- Requires the classroom hours meet qualifications described in new section 246-805-120 and experience requirements to meet qualifications described in new section WAC 246-805-130.
- Allows the required examination to be from any department approved professional credentialing entity instead of limiting it to the examination offered by the BACB.

Cost(s): The department does not anticipate any additional costs associated with removing AIDS continuing education, allowing additional routes for licensure, and expanding examination through all department approved professional credentialing entities. New sections WAC 246-805-110, 246-805-120 or 246-802-130 will be addressed in the analysis below for those sections.

Benefit(s): Removing AIDS education matches changes in the statute and is potentially cost savings as licensees do not have to spend time in training. The potential effect of the change (allowing for an additional route to licensure through all department approved professional credentialing entities, and expand examination through all department approved national accredited professional credentialing entities) is to reduce barriers to licensure. This protects professional quality of care without reducing patient safety.

WAC 246-805-110 Licensed behavior analyst – Recognized educational programs. [New Rule]

Description: The proposed rule clarifies the requirements for educational programs for licensed behavior analysts (LBA). These requirements were previously needed in order to pass the required BCBA exam, and the department is now putting these into rule.

- The requirements for recognizing educational programs have been enforced in the past by the requirement that all applicants must take the examination for board certified behavior analyst, which is now eliminated from the rule.
- All candidates who take the BCBA examination must graduate from educational institutions that are accredited by CHEA or U.S. Department of Education, or by the Canadian or United Kingdom governments. Similar language is added in this rule to assure candidates continue to meet this requirement.

Cost(s): The department does not anticipate any additional costs as the proposed rule only clarifies what is already required and does not change the requirements.

Benefit(s): Implements RCW 18.380.050(1)(a)(i), making it clear which educational programs are acceptable for licensure as an LBA. This protects professional quality of care without reducing patient safety.

WAC 246-805-120 Licensed behavior analyst – Required topics for classroom hours. [New Rule]

Description: The proposed rule adds classroom topics for LBAs.

- The requirements for classroom topics have been enforced in the past by the requirement that all applicants must take the examination for BCBA, which has been expanded to include any qualifying examination under additional credentialing entities.
- All candidates who take the BCBA examination must meet the BCBA requirements for classroom hours and topics. The BCBA has now raised hours required and changed the topics to match those hours. The proposed rules recognize the topics that have been in place for the number of hours (225) in RCW 18.380.050(1)(a)(ii) for Washington candidates.

Cost(s): The department does not anticipate any additional costs as the proposed rule only clarifies what is already required and do not change the requirements.

Benefit(s): Implements RCW 18.380.050(1)(a)(i), making it clear which classroom topics are acceptable for licensure as an LBA. This protects professional quality of care without reducing patient safety.

WAC 246-805-130 Licensed behavior analyst – Supervised experience. [New Rule]

Description: The proposed rule language explains the supervised experience for LBA licensure.

- The requirements for qualifying supervised experience have been enforced in the past by the requirement that all applicants must take the examination for BCBA, which has been expanded to include any qualifying examination under additional credentialing entities.
- These requirements include a supervisor who is a BCBA who is not related or in another relationship with the applicant, a supervision contract, and specifies time frames that need to be met. The proposed rules now specify these requirements for supervision.

Cost(s): The department does not anticipate any additional costs as the proposed rules only clarify what is already required and does not change the requirements.

Benefit(s): Implements RCW 18.380.050(1)(a)(i), making the supervised experience requirements for a LBA clear to the applicants. This protects patient safety and professional quality of care without reducing patient safety.

WAC 246-805-200 Licensed assistant behavior analyst – Application requirements.

Description: The proposed rule amendment clarifies existing application requirements to apply for a LABA credential. Amendments include:

- Removing the requirement for AIDS continuing education to match the changes in ESHB 1551.
- Clarifying that the supervisor named in the application is the clinical supervisor.
- Changing the acceptance of the BCBA certification toward licensure to any equivalent certification from a department-approved professional credentialing entity.

Cost(s): The department does not anticipate any additional costs associated with removing AIDS continuing education or allowing additional routes for licensure.

Benefit(s): Removing AIDS education matches changes in the statute and is potentially cost savings as licensees do not have to spend time in training. This potential effect of the change (allowing for a route to licensure and examination through all credentialing entities) is to reduce barriers to licensure. This protects professional quality of care without reducing patient safety.

WAC 246-805-220 Licensed assistant behavior analyst – Required topics for classroom hours.

Description: The proposed rule amendment clarifies that required courses that are not taken as part of the applicant’s bachelor’s degree must be part of an approved course sequence.

Cost(s): The department does not anticipate any costs associated with assuring courses are part of an approved course sequence. No additional requirements are made with these changes.

Benefit(s): The requirement of a course sequence will ensure that classes meant to increase knowledge of individuals already in the profession will not be substituted for classes that are needed for understanding the minimum basic requirements. It also decreases confusion an applicant might have about what is needed to qualify for a license.

WAC 246-805-230 Licensed assistant behavior analyst – Supervised experience.

Description: The proposed rule amendment makes the following changes:

- Allows supervision by anyone who holds a certification equivalent to an LBA from a department-approved professional credentialing entity.
- Adds clarifying language that this rule refers only to the training program supervisor that provides supervision for the supervised experience required for licensure.

Cost(s): The department does not anticipate any additional costs for allowing the supervised experience to be provided by individuals who have an LBA equivalent certification from a

department-approved professional credential entity or for clarifying that the supervisor is the training program supervisor.

Benefit(s): This rule allows for more choices for LABA training so that more individuals qualify for this credential and clarifies the type of supervisor. This protects quality of care without reducing patient safety.

WAC 246-805-240 Licensed assistant behavior analyst – Continuing Supervision.

Description: The proposed rule amendment makes the following changes:

- Allows supervision by a licensed health care professional who has applied behavior analysis within their scope of practice and is exempt from licensure as an applied behavior analyst in RCW 18.380.030(1).
- Adds clarifying language that this rule refers only to the clinical supervisor who provides ongoing work supervision and does not refer to the training program supervisor.

Cost(s): The department does not anticipate any additional cost for allowing health care professionals who are exempt from ABA licensure to provide ongoing supervision for LABAs.

Benefit(s): This rule allows for supervision by additional license types. This protects professional quality of care without reducing patient safety.

WAC 246-805-250 Licensed assistant behavior analyst – Supervision disclosure. [New Rule]

Description: The proposed rule is recreated from the repealed requirements in WAC 246-805-020 to keep all LABA requirements together. Changes from the current rule include:

- Clarifies that supervision disclosure requirements apply to both individuals who are being supervised for training and LABAs who require ongoing supervision.
- Clarifies who receives the supervision disclosure and when.
- Requires the disclosure be reviewed at least once per year.

Cost(s): The department does not anticipate any additional cost for language clarifying that this rule applies to both supervised experience and ongoing supervision or the clarification that this applies to client, parent, or legal guardian. The department anticipates that any cost resulting from updating the agreement when supervision is changed and reviewing the agreement once per year will be negligible. The department estimates that it takes a few minutes of administrative time every time it needs to be completed. Records are normally kept and shared electronically.

Benefit(s): This rule ensures that all parties are kept up to date regarding the oversight of the LABA. Having the supervisor’s information ensures that the client is aware of who is in charge of the behavior analysis plan and can contact that person with any questions regarding treatment and to discuss any treatment that the client feels may be harmful.

WAC 246-805-300 Certified behavior technician – Application requirements.

Description: The proposed rule amendment clarifies existing application requirements to apply for a CBT credential. Amendments include:

- Removes the requirement for AIDS continuing education to match the changes in ESHB 1551.
- Clarifies that the supervisor named in the application is the clinical supervisor.
- Changes the acceptance of the CBT registration toward licensure to any equivalent certification from a department approved professional credentialing entity.

Cost(s): The department does not anticipate any costs associated with providing the name of the supervisor, allowing licensure through all department approved national accredited professional credentialing entities, or repealing AIDS education requirements.

Benefit(s): Removing AIDS education matches changes in the statute and is potentially costs savings as licensees do not have to spend time in training. The potential effect of the change (allowing for a route to certification through all I credentialing entities) is to reduce barriers. This protects professional quality of care without reducing patient safety.

WAC 246-805-310 Behavior technician training program.

Description: This section describes specific details required for a training program required for certification. Amendments include the following:

- Removes schools from the definition of approved a CBT training program. This does not preclude school programs from being used but the training program will be in charge of assuring the school program meets their requirements. The assessment from the supervisor would include verification of classroom training content, allowing for the supervisor to train individuals who have obtained classroom training through a college.
- Changes the supervisor requirements from an individual with an active BCBA credential from the BACB to an individual with a certification equivalent to an LBA from a department approved professional credentialing entity. Any individual with a license as an LBA would continue to qualify as a supervisor.
- Adds clarification that an applicant from an out-of-state program may not work until a credential has been issued.

- Clarifies that notification of services that are being provided by a trainee must be signed by the client, parent, or legal guardian and that this documentation must be placed in the client's file. The existing rule language already indicated that document must be in the file but was not concise.
- Changes the time-frame for a trainee to submit an application from 180 days from the date they begin the program to one year from the date they begin the program. This allows for someone in an LBA program to submit an application to work as a CBT during their summer break, using the training obtained in their LBA program.
- Requires the training program to keep the trainee's documents for a minimum of four years or to abide by any other standard required by law, whichever is longer. This provides a standard time-frame for keeping training records.
- Clarifies that an attestation for application is signed by the training program supervisor upon successful completion of the training program requirements.

Cost(s): The department does not anticipate any additional costs associated with removing schools from the definition of a training program or allowing more individuals to supervise a trainee. The department does not anticipate costs associated with clarifying that an applicant from an out-of-state program must wait until a credential is issued before they can work or with changing the time-frame that a trainee must submit an application. There are no additional costs to clarify that an attestation for application must be signed by the training supervisor because this was already required per the form completed by the supervisor. Obtaining a signature from the client or client's guardian is a negligible cost as it requires only a few minutes of time. Costs associated with keeping training documents for each trainee for four years is assumed negligible as files are normally kept electronically.

Benefit(s): This rule makes it easier for college students to obtain the CBT credential, increasing the number of CBTs and allowing the student to gain experience. The potential effect of the change (allowing more individuals to be a supervisor) is to reduce barriers to licensure. This protects patient safety and professional quality of care without reducing patient safety. The requirement to keep records for minimum of four years assures that they are available if needed.

WAC 246-805-320 Certified behavior technician – Tasks.

Description: The proposed rule amendment makes the following changes:

- Allows supervision by a licensed health care professional who has ABA within their scope of practice and is exempt from licensure as an ABA in RCW 18.380.030(1).

Cost(s): The department does not anticipate any costs associated with allowing health care professionals who are exempt from ABA licensure to provide ongoing supervision to LABAs.

Benefit(s): The potential benefits of the change (allowing for supervision by additional license types) are to reduce barriers to licensure and protect professional quality of care without reducing patient safety.

WAC 246-805-330 Certified behavior technician – Continuing supervision

Description: The proposed rule amendment allows for the following:

- Allows supervision by a licensed health care professional who has ABA within their scope of practice and is exempt from licensure as an ABA in RCW 18.380.030(1).
- Clarifies that this rule refers only to the clinical supervisor who provides ongoing supervision and does not refer to the training program supervisor.
- Clarifies that observation of the CBT when providing ABA services and observation of the CBT with each client is part of the direct supervision for five percent of the CBTs hours.

Cost(s): The department does not anticipate any costs associated with allowing health care professionals who are exempt from ABA licensure to provide ongoing supervision to LABAs or any costs for other clarifying language.

Benefit(s): The proposed rule clarifies requirements already in place making it easier to find and comply with. The potential effect of the change (allowing for supervision by additional license types) protects professional quality of care without reducing patient safety.

WAC 246-805-340 Certified behavior technician – Supervision disclosure.

Description: The proposed rule is recreated from the repealed requirements in WAC 246-805-020 to keep all CBT requirements together. Changes from the current rule include:

- Clarifying that supervision disclosure requirements apply to both individuals who are being supervised for training and CBTs who require ongoing supervision.
- Clarifying who receives the supervision disclosure.
- Requires the disclosure be reviewed at least once per year.

Cost(s): The department does not anticipate any additional cost for language clarifying that this rule applies to both supervised experience and ongoing supervision or the clarification that this applies to client, parent, or legal guardian. It is anticipated that any cost resulting from updating the agreement when supervision is changed and reviewing the agreement once per year will be negligible. The department estimates that it takes a few minutes of administrative time every time these updates, changes, and reviews need to be completed. Records are normally kept and shared electronically.

Benefit(s): The rule assures that all parties are kept up to date regarding the oversight of the CBT. Having the supervisor’s information assures that the client is aware of who is in charge of the behavior analysis plan and can contact that person with any questions regarding treatment and to discuss any treatment that the client feels may be harmful.

WAC 246-805-400 Continuing education requirements for an LBA and LABA. [Title change to: General continuing education requirements for LBA and LABA.]

Description: The proposed rule makes the following changes:

- Removes language to show only the common requirements for LBA and LABA candidates.
- Changes the term “national certification board affiliated with behavior analysis” to “professional credentialing entity” in order to make it consistent with language being changed in other rules.
- Requires licensees to keep continuing education records for four years.

Cost(s): The department does not anticipate any additional cost for changing the rule to general requirements or for updating the language referring to nationally accredited professional credentialing entity. The department anticipates that any cost resulting from requiring licensees to keep records for four years will be negligible because this amendment is in reference to a small amount of documentation that can be kept electronically.

Benefit(s): Separating the LBA and LABA rules will make the rules clear and concise. Changing language to “national accredited professional credentialing entity” makes the rule consistent with other rules and easier to understand. The requirement to keep records for a minimum of four years assures that they are available if needed.

WAC 246-805-401 Licensed behavior analyst – continuing education requirements. [New Rule]

Description: The proposed rule is is recreated from the requirements deleted from WAC 246-805-400 to separate the LBA from the LABA requirements. Changes from the current rule include:

- Changes the term from “national certification board ” to “professional credentialing entity” to make it consistent with language used in other rules.
- The proposed rule adopts the model health equity CE rules by adding the required two hours in health equity CE every four years to the existing number of CE hours required for LBAs without changing the existing total number of required CE hours. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession.

Cost(s): There are no anticipated costs with changing language to “professional credentialing entity.” LBAs will be able to obtain the new health equity CE by taking the free online training. If this free online health equity CE training replaces another CE training that required a fee, then the provider could see a cost savings.

Benefit(s): Putting the requirements for LBAs into this rule makes it easier to find the LBA requirements. Changing language to “professional credentialing entity” makes the rule consistent with other rules and easier to understand. Two hours of health equity training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional’s interaction with those receiving care. Health equity training enables health care professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional’s existing CE requirements, therefore not requiring completion of additional CE hours.

WAC 246-805-402 Licensed assistant behavior analyst – continuing education requirements. [New Rule]

Description: The proposed rule is recreated from the requirements deleted from WAC 246-805-400 to separate the LBA from the LABA requirements. Changes from the current rule include:

- Changes the term from “national certification board” to “professional credentialing entity” to make it consistent with language used in other rules.
- The proposed rule adopts the model health equity CE rules by adding the required two hours in health equity CE every four years to the existing number of CE hours required for LABAs without changing the existing total number of required CE hours. The health equity CE requirement is counted under existing, unspecified CE requirements for the profession

Cost(s): There are no anticipated additional costs with the proposed rule. No additional CE hours are required to comply with the new health equity CE requirement. In fact, there could potentially be a cost-savings to the provider. ESSB 5229 required the department to make a free online training available by July 1, 2023, to satisfy the health equity CE requirement. LABAs will be able to obtain the new health equity CE by taking the free online training. If this free online health equity CE training replaces another CE training that required a fee, then the provider could see a cost savings.

Benefit(s): Putting the requirements for LABAs into this rule makes it easier to find the LABA requirements. Changing language to “professional credentialing entity” makes the rule consistent with other rules and easier to understand. Two hours of training allows individuals to gain a foundation in health equity that can have an immediate positive impact on the professional’s interaction with those receiving care. Health equity training enables health care

professionals to care effectively for patients from diverse cultures, groups, and communities, varying race, ethnicity, gender identity, sexuality, religion, age, ability, socioeconomic status, and other categories of identity. The two hours of health equity CE credits may be earned as part of the health professional's existing CE requirements, therefore not requiring completion of additional CE hours.

WAC 246-805-410 Continuing competency requirements for a CBT.

Description: The proposed rule makes the following changes:

- Allows the CBT who is not employed when their credential comes up for renewal to attest that the CBT is not working. When the CBT again begins working, the CBT must fulfill the continuing competency requirements within three months.
- Eliminates language that the requirements of this section are effective for a certification renewed on or after July 1, 2018.
- Changes the term from “national certification board” to “professional credentialing entity” to make it consistent with language used in other rules.
- Requires licensees to keep continuing education records for four years.

Cost(s): The department does not anticipate additional costs for the proposed rule language for a CBT to attest that they are now working or for eliminating language that referred to requirements before July 1, 2018. The department anticipates that any cost resulting from requiring licensees to keep records for four years will be negligible because this amendment is in reference to a small amount of documentation that can be kept electronically.

Benefit(s): The change to allow at license renewal for an attestation that a CBT is not working benefits CBTs who may be on maternity leave or have taken a break from CBT work for other reasons and makes it easier for a CBT to come back to work at a later time. Eliminating language for the effective date removes outdated language and changing language to “professional credentialing entity” makes the rule clear and concise. The requirement to keep records for a minimum of four years assures that they are available if needed.

WAC 246-805-510 Reciprocity. [New Rule]

Description: The proposed new rule section does the following:

- Allows for an individual who has a credential in another state with qualifications substantially equivalent to Washington to obtain a license.
- Requires an applicant for reciprocity to submit verification from that state, along with verification from any other state they are licensed in to show that they have no negative action on any license to practice ABA. Applicants would not need to send verification of training as being licensed in the other state verifies that their training is sufficient.

Cost(s): The department does not anticipate any additional cost for allowing an additional route to licensure. The proposed cost of licensure through reciprocity is the same as obtaining licensure through an initial application in Washington and would require potentially an easier process than the current application process.

Benefit(s): These applicants would not need to send verification of training as being licensed in the other state verifies that their training is sufficient, allowing for quicker processing of an application.

Summary of all Cost(s) and Benefit(s)

SA Table 2. Summary of Section 5 probable cost(s) and benefit(s)

WAC Section and Title	Probable Cost(s)	Probable Benefit(s)
WAC 246-805-025 Approval of national accredited professional credentialing entities.	No additional costs anticipated.	Allows for additional routes to licensure and reduces barriers to licensure without reducing patient safety.
WAC 246-805-100 Licensed behavior analyst – Application requirements.	No additional costs anticipated.	Allows for additional routes to licensure without reducing patient safety.
WAC 246-805-110 Licensed behavior analyst – Recognized educational programs.	No additional costs anticipated.	Clarifies which educational programs are acceptable for licensure as an LBA, protecting professional quality of care without reducing patient safety.
WAC 246-805-120 Licensed behavior analyst – Required topics for classroom hours.	No additional costs anticipated.	Clarifies which classroom topics are acceptable for licensure as an LBA, protecting professional quality of care without reducing patient safety.
WAC 246-805-130 Licensed behavior analyst – Supervised experience.	No additional costs anticipated.	Clarifies the type of supervised experience requirements for licensure as an LBA, protecting professional quality of care without reducing patient safety.
WAC 246-805-200 Licensed assistant behavior analyst – Application requirements.	No additional costs anticipated.	Removes AIDS education as a potential cost savings. Allows for additional routes to licensure and reduces barriers without reducing patient safety .

WAC 246-805-220 Licensed assistant behavior analyst – Required topics for classroom hours.	No additional costs anticipated.	Ensures classes meant to increase knowledge of individuals already in the profession will not be substituted for classes that are needed for understanding the minimum basic requirements. This decreases confusion an applicant might have about qualifications for licensure.
WAC 246-805-230 Licensed assistant behavior analyst – Supervised experience.	No additional costs anticipated.	Allows for more choices for LABA supervisors, protecting quality of care without reducing patient safety.
WAC 246-805-240 Licensed assistant behavior analyst – Continuing supervision.	No additional costs anticipated.	Allows for supervision by additional license types, protecting professional quality of care without reducing patient safety.
WAC 246-805-250 Licensed assistant behavior analyst – Supervision disclosure.	No additional costs anticipated.	This rule was formerly WAC 246-805-020 and is moved so it is easier for the LABA credential holder to find. Changes ensure that all parties are kept up to date regarding the oversight of the LABA and that the client is aware of who is in charge and the client can contact that person.
WAC 246-805-300 Certified behavior technician – Application requirements.	No additional costs anticipated.	Removes AIDS education as a potential cost savings. Allows for additional routes to certification and reduces barriers to certification without reducing patient safety.
WAC 246-805-310 Behavior technician training program.	May have a negligible cost related to obtaining signature from a client or guardian. May also have a negligible cost for keeping training documents for four years.	Changes make it easier for college students to obtain the CBT credential. Allowing more individuals to be a supervisor reduces barriers to licensure.

WAC 246-805-320 Certified behavior technician – Tasks.	No additional costs anticipated.	Allows for supervision by additional license types, reducing barriers to licensure and protecting quality of care without reducing patient safety.
WAC 246-805-330 Certified behavior technician - Continuing supervision.	No additional costs anticipated.	Allows for supervision by additional license types. This protects professional quality of care without reducing patient safety.
WAC 246-805-340 Certified behavior technician – Supervision disclosure.	May have a negligible cost for updating the supervision agreement & reviewing the agreement once per year.	This rule was formerly WAC 246-805-020 and is moved so it is easier for the CBT credential holder to find. Changes will assure that all parties are kept up to date regarding the oversight of the CBT, ensuring the client is aware of who is in charge and can contact that person.
WAC 246-805-400 General continuing education requirements for an LBA and LABA.	No additional costs anticipated.	Separating LBA and LABA, as well as making changes that allow the rules to be consistent with other rules will make them clear and concise. The requirement to keep records for a minimum of four years ensures that they are available if needed.
WAC 246-805-401 Licensed behavior analyst – continuing education requirement.	No additional costs anticipated.	Putting the requirements for LBA’s into this rule makes it easier to find. Changing language to make the rule consistent with other rules makes them clear and concise.
WAC 246-805-402 Licensed assistant behavior analyst – continuing education requirements.	No additional costs anticipated.	Putting the requirements for LABA’s into this rule makes it easier to find. Changing language to make the rule consistent with other rules makes them clear and concise.

<p>WAC 246-805-410 Continuing competency requirements for a CBT.</p>	<p>No additional costs anticipated.</p>	<p>Allows renewal for a CBT who may be on a break from the profession but plans to return makes it easier for a CBT to return to work at a later time. Removing dated language and changing language to make the rule consistent with other rules makes the rule clear and concise. The requirement to keep records for a minimum of four years assures they are available if needed.</p>
<p>WAC 246-805-510 Reciprocity.</p>	<p>No additional costs anticipated.</p>	<p>Allows for quicker processing of an application.</p>

Determination

Probable Benefits greater than Probable Costs

The probable benefits to the proposed rule include expanded routes to licensure and reducing barriers to licensure while keeping patients safe, clarifying requirements for better understanding, and making sure that clients and guardians understand who is supervising the CBT. The probable costs are estimated by the department to be negligible. Therefore the probable benefits of the proposed rule outweigh the probable costs.

SECTION 6

List of alternative versions of the rule that were considered including the reason why the proposed rule is the least burdensome alternative for those that are required to comply and that will achieve the goals and objectives of the proposed rule.

Two workshops were held in September 2020. Notices were sent to the ABA professions GovDelivery interested parties list. The department also worked with the ABA committee at their public meetings between October 2020 and October 2022. Meeting notices which included the rules as an agenda item were sent to the GovDelivery list and public input was also presented at those meetings.

SA Table 3. Alternative Versions of Rule Considered



<p>1. Proposed amendment to WAC 246-805-025 Approval of national accredited professional credentialing entities (NAPCE) – The department originally considered adding specific names of the entities, including the addition of the additional NAPCE’s in definition (WAC 246-805-010). Instead, the department chose not to include the names and removed the name of the NAPCE that already had approval. This change also takes place throughout the rest of the chapter.</p>	<p>The department determined that including the requirements for the NAPCE in rule would be the best way to assure consistency and transparency.</p>
<p>2. Proposed amendment to WAC 246-805-025. The proposal includes a requirement that the NAPCE be approved by an accreditation body that check for specific items and also indicates two credentialing entities that meet those standards. The department considered adding some additional requirements that are not checked by the accreditation bodies, including that the NAPCE be a nonprofit organization.</p>	<p>The department also determined that additional requirements were not necessary and provided the least level of burden.</p>
<p>3. Proposed amendment to WAC 246-805-310 Behavior technician training program. The department considered making a change to the supervision clause that requires the supervisor of a behavior technician trainee to be within sight and hearing and available for immediate intervention when the trainee is working with clients.</p>	<p>The department chose to keep the wording as is because the individual being supervised is a trainee and having a supervisor available for immediate intervention allows for the safety of the client.</p>
<p>4. Proposed amendment to WAC 246-805-330 – Certified behavior technician – Continuing supervision – The proposal changes the requirement for observation of a CBT from once every three months to once every six weeks.</p>	<p>The department considered other options. Some professionals and members representing the public felt that this time frame should be lower than six weeks, professionals representing larger companies felt that requiring anything more than every three months could be a burden because they have more clients. The department</p>

	feels that this amount of time puts safety first while keeping the burden lower than a requirement for observation every 4 weeks.
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The proposed rules are the least burdensome option to achieve the statutes goals and objectives by providing updated requirements that are clear, concise, and necessary to ensure patient safety.

SECTION 7

Determination 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 proposed rules do not require those to whom it applies to take an action that violates the requirements of federal or state law.

SECTION 8

Determination 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 proposed rules do not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

SECTION 9

Determination 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 proposed rules do not differ from any federal regulation or statute applicable to the same activity or subject matter.

SECTION 10

Demonstration 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 proposed rules do not differ from any federal regulation or state applicable to the same activity or subject matter.