



RULE-MAKING ORDER EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: March 20, 2024

TIME: 10:12 AM

WSR 24-07-100

Agency: Department of Health

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Amending the definition of mental health professional and creating certified agency affiliated counselor and licensed agency affiliated counselor credentials.

Amending WACs 246-341-0200 and 246-341-0515 in chapter 246-341 WAC, Behavioral Health Agency Licensing and Certification Requirements, and WACs 246-810-010, 246-810-015, and 246-810-990 in chapter 246-810 WAC, Counselors.

Second Substitute House Bill (2SHB) 1724 (chapter 425, Laws of 2023) made several immediate changes impacting behavioral health agencies, including amending the definition of “mental health professional” (MHP) and creating two new agency affiliated counselor (AAC) credentials. Because 2SHB 1724’s amendments to the MHP definition and AAC credentials went into effect immediately and were designated as necessary for the immediate preservation of the public health, safety, or general welfare, the Department of Health (department) implemented these changes by emergency rule under WSR 23-16-031, filed on July 21, 2023 and continued them under WSR 23-23-136, filed November 17, 2023.

This emergency rule continues without changes the original emergency rule package. The emergency rule:

- Amends chapter 246-341 WAC to address language that conflicts with 2SHB 1724, deleting an outdated definition of MHP requirements and updating an incorrect cross-reference.
- Amends chapter 246-810 WAC to expand existing language to establish two new credentials, the certified agency affiliated counselor (C-AAC) and the licensed agency affiliated counselor (L-AAC). The amendments align rule language with statute and revise the registered AAC fees to apply to all AAC types.

The emergency rules will be continued while permanent rule making is in progress under WSR 23-16-044, filed on July 25, 2023 which will create the new agency affiliated counselor credentials; and WSR 23-13-017, filed on June 9, 2023, addressing behavioral health agency regulations as they relate to 23-hour crisis relief centers in Washington state.

Citation of rules affected by this order:

- New: None
 Repealed: None
 Amended: WACs 246-341-0200, 246-341-0515, 246-810-010, 246-810-015, 246-810-990
 Suspended: None

Statutory authority for adoption: RCW 18.19.050 and 71.24.037

Other authority: 2SHB 1724 (chapter 425, Laws of 2023)

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The legislature established in 2SHB 1724, Section 33 that many sections of the bill are “necessary for the immediate preservation of the public peace, health, or support of the state government and its existing public institutions and take effect immediately.” Sections 13 through 20, which create the new AAC credentials and amend the definition of MHP, are among the sections that became effective immediately.

Under 2SHB 1724, RCW 71.05.020 was amended to define an MHP as an individual practicing within their credential’s scope of practice. Qualifying credentials include the certified and licensed AAC credential, but not the current AAC registration. Prior to the passage of 2SHB 1724, many MHPs performed assessments and made diagnoses with only a registration. After 2SHB 1724 became effective, however, they were required to obtain an AAC certification, AAC license, or other qualifying credential in order to continue providing these services. Establishing the new AAC credentials immediately by emergency rule and continuing these emergency rules allows MHPs to transition into the new credentials and continue providing essential behavioral health services while permanent rules are in progress.

If the department had waited to make these amendments through standard rulemaking, MHPs with an AAC registration would be both unable to continue assessing and diagnosing due to the changed MHP definition and unable to obtain a higher AAC credential that would allow them to continue that work. Continuing these emergency rules will allow MHPs who are AACs to continue serving Washington residents with behavioral health needs.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New 0	Amended 0	Repealed 0
Federal rules or standards:	New 0	Amended 0	Repealed 0
Recently enacted state statutes:	New 0	Amended 5	Repealed 0

The number of sections adopted at the request of a nongovernmental entity:

New 0	Amended 0	Repealed 0
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The number of sections adopted on the agency's own initiative:

New 0	Amended 5	Repealed 0
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New 0	Amended 0	Repealed 0
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The number of sections adopted using:

Negotiated rule making:	New 0	Amended 0	Repealed 0
Pilot rule making:	New 0	Amended 0	Repealed 0
Other alternative rule making:	New 0	Amended 5	Repealed 0

Date Adopted: March 13, 2024

Name: Kristin Peterson, JD, for Umair A. Shah, MD, MPH

Title: Chief of Policy for Secretary of Health

Signature:

