

Significant Legislative Rule Analysis

WAC 246-803-040
a Rule Concerning Education
and Training for Point
Injection Therapy

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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.

The Department of Health (department) is proposing to amend WAC 246-803-040, education and training requirements for point injection therapy for acupuncture and Eastern medicine practitioners, to allow eight hours of didactic education to occur through live interactive webinar. The current rule requires all training to be in-person.

The department received a rule petition on June 2, 2023 asking for rule making on point injection therapy training flexibility from the Washington Acupuncture and Eastern Medicine Association (WAEMA) and from an individual who provides point injection therapy education and training. Specifically they asked for 16 hours of training to be distance learning and eight hours to be in-person clinical practical experience. After careful consideration, the department agreed to file a Preproposal Statement of Inquiry (CR-101 form) with the Office of the Code Reviser to consider these changes.

Due to the coronavirus disease 2019 (COVID-19) pandemic, the education and training for point injection therapy was difficult to achieve. A hybrid course with an online portion covering the lectures and safety topics, up to eight hours, and the remaining 16 hours to cover the required in-person hands-on training was temporarily implemented. This was intended to cut costs as well as travel time and limit close contact and increase accessibility for licensees hoping to get trained to practice point injection therapy in this state.

The department in consultation with the Acupuncture and Eastern Medicine Advisory Committee assessed and determined that there are no feasible alternatives to rule making. Standards need to be established in rules to be enforced. The department is required under RCW 18.06.230 to establish and adopt rules for the education and training requirements for an acupuncturist or acupuncture and Eastern medicine practitioner administering point injection therapy. To allow for more flexibility in obtaining point injection therapy training, the existing rule, WAC 246-803-040, would need to be amended.

The proposal will require an acupuncturist or acupuncture and Eastern medicine practitioner performing point injection therapy to continue to complete 24 hours of training, however not all training must be in-person. The department is proposing:

- 16 hours must be in-person, and eight of these hours must be hands-on clinical practical experience; and
- The remaining eight hours may be obtained through live interactive webinar or in-person.

While the proposal does not reflect the exact changes that the petitioner requested, a hybrid approach is being proposed which allows flexibility. The practitioner will be able to attend eight hours online training, reducing the number of travel days which is intended to provide a cost savings while maintaining patient safety.

SECTION 2

Significant Analysis Requirement

As defined in RCW 34.05.328, the proposed rule amendments require significant analysis because they are substantive provisions pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction. The analysis can be found in SECTION 5 below.

SECTION 3

Goals and objectives of the statute that the rule implements.

The proposal implements the general goals and objectives of chapter 18.06 RCW that establishes the acupuncture and Eastern medicine practitioner profession. Under chapter 18.06 RCW the legislature finds that acupuncture and Eastern medicine is a health care service utilizing acupuncture or Eastern medicine diagnosis and treatment to promote health and treat organic or function disorders, which includes a variety of traditional and modern acupuncture and Eastern medicine therapeutic treatments, such as the practice of acupuncture techniques and herbal medicine to maintain and promote wellness, prevent, manage, and reduce pain, and treat substance use disorder.

Pursuant to RCW 18.06.010(1)(m) and 18.06.230 an acupuncturist or acupuncture and Eastern medicine practitioner must obtain the education and training necessary prior to providing point injection therapy services. The department is required to adopt rules for the education and training for point injection therapy.

The proposed rule implements the statute's objectives by:

- Amending the rule to allow up to eight hours of the required 24 hours to be obtained through live interactive webinar or in-person, and the other 16 hours to cover the required in-person hands-on training.

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.

The department in consultation with the Acupuncture and Eastern Medicine Advisory Committee assessed and determined that there are no feasible alternatives to rule making. Standards need to be established in rules to be enforced. The department is required under RCW 18.06.230 to establish and adopt rules for the education and training requirements for an acupuncturist or acupuncture and Eastern medicine practitioner administering point injection therapy. To allow for more flexibility in obtaining point injection therapy training, the existing rule, WAC 246-803-040, needs to be amended.

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 246-803-040 Education and training for point injection therapy.

Description:

The existing rule requires education and training requirements for acupuncturists and acupuncture and Eastern medicine practitioners to administer point injection therapy. Licensed acupuncturists and acupuncture and Eastern medicine practitioners must complete a minimum of 24 contact hours of education and training. The current training may not be obtained through webinar or other online or distance learning methods.

The proposed amendment will allow up to eight hours of education to be obtained through live interactive webinar or in-person. The other 16 hours must be in-person; eight hours of which must be hands-on clinical practical experience.

Cost(s):

There are no new costs estimated. The department is proposing an amendment that would allow acupuncture and Eastern medicine practitioners to complete eight hours of the required 24-hour point Injection course to be completed via live interactive webinar. In practice, the training course is conducted by two instructors in Kirkland, Washington over the span of a three-day period. The department received support from the two providing instructors who have confirmed that although the hybrid lecture courses have not been finalized, it is likely to remain the same cost of \$1,250 for the current 24-hour course. However, the department acknowledges the proposed rule amendments could potentially reduce the costs to the practitioners as there will be one less day spent at the course which would decrease practitioners' cost for meal rate and lodging.

Costs of lodging and meals:

Currently, this course is conducted over a three-day period. This leads to overnight stays for those taking the course who do not reside in King County. Using the FY 2024 per diem rates for King County as published by the U.S. General Services Administration, the current cost to attend the training is estimated at:

- Three nights at \$232¹/night= \$696
- Meal reimbursement \$79²/day for three days= \$237
- Total= \$933

If the required "in person" training is completed in two days with the option of completing the remaining eight hours online, it could save non-King county residents \$311 in lodging and meal costs associated with physically attending the course:

¹ FY 2024 Per Diem Rates for KIRKLAND, Washington | GSA

² Ibid

- 2 nights lodging at \$232/night³= \$464
- Meal reimbursement \$79⁴/day for 2 days= \$158
- Total= \$622

The costs above do not include any expenses related to mileage. As potential licensed acupuncturist and acupuncturist and eastern medicine practitioners currently travel from across the state to attend. The current mileage reimbursement is \$0.67/mile, however the number of total miles traveled per practitioner is unable to be estimated. It is likely that King county residents that travel back and forth instead of spending the night will also save in mileage expenses, but this was not estimated.

Benefit(s): The benefit of this proposed rule amendment includes potentially reducing a barrier for practitioners by allowing the option to complete eight hours of training by online interactive webinar. This would allow licensees to potentially save costs of lodging and travel for one full day. There are no anticipated patient safety concerns as the hybrid component was temporarily enacted under the 2020 pandemic during which time the department received no complaints specific to patient safety.⁵

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 246-803-040 Education and Training for Point Injection	Potential cost savings of \$311 for one full day of lodging, travel and reimbursement.	Reducing financial barriers for practitioners required to travel for training education.

Determination

Probable Benefits greater than Probable Costs

It was determined that the probable benefit of the proposed rule is that the practitioners of the training will be able to attend eight hours of the education by online interactive webinar instead of having to travel for an additional day may result in a cost savings and reduction of barriers to training to the practitioner and to the instructors also.

³ Ibid

⁴ Ibid,

⁵ Internal Communication

It was determined that the probable benefit of the proposed rule outweighs 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.

The department worked closely with the Acupuncture and Eastern Medicine Advisory Committee, patients, WAEMA and practitioners to develop the proposed rules collaboratively. The collaborative process included sending notice of the rulemaking to the GovDelivery interested parties and holding three open public rules workshops. The workshops were held by webinar with a physical location available. One of the workshops was held during a committee meeting and was noted on the Acupuncture and Eastern Medicine Advisory Committee's agenda. The agenda was sent via GovDelivery and posted to the program's website.

Prior to the workshops, the department had sent out draft language to give the interested parties a starting point.

Description of alternatives considered (point injection therapy)

One alternative considered was allowing 16 hours of the education and training to be offered by an online interactive webinar. After lengthy discussions, the interested parties agreed that the online interactive webinar education should be limited to eight hours with the remaining 16 hours to be in-person for the point injection therapy education and training. The reduction of in-person hours was a cost saving that needed to be balanced with patient safety. After consideration, it was determined that 16 hours would have a decrease in potential patient impact.

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 rule does 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 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.

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 rule does 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 rule does not differ from any federal, state, or local laws applicable to the same activity or subject matter.