

Significant Legislative Rule Analysis

Supplemental Analysis for
Chapter 246-822 WAC
a Rule Concerning Dietitians
or Nutritionists

April 2024

To request this document in another format, call 1-800-525-0127. Deaf or hard of hearing customers, please call 711 (Washington Relay) or email doh.information@doh.wa.gov.

For more information or additional copies of this report:

Washington State Department of Health

Health Systems Quality Assurance / Office of Health Professions

Kim-Boi Shadduck

Washington State Department of Health

P.O. Box 47852, Olympia, WA 98504-7852

360.236.2912

360.236.2901 (fax)

KimBoi.Shadduck@doh.wa.gov

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.

*This is a supplemental Significant Legislative Rule Analysis. The Department of Health (department) originally proposed rules under WSR 23-22-131 and held a public hearing on December 5, 2023 on the proposed rules. At that public hearing, several interested individuals requested that rules workshop comments from 2019 be incorporated into the rule language. Many comments noted the importance of the work completed in 2019, particularly the inclusion of definitions of areas of practice for certified dietitians and certified nutritionists. The department made thoughtful changes to the original rule language that was presented at the first public hearing to address concerns raised on December 5, 2023. The department shared a draft version of the updated rules with interested individuals and has received support and comments on the updated proposed rules. Changes to the rule text and the subsequent impacts are analyzed throughout this document are shown in italic and **bold** font.*

Background on the Dietitian Profession

Dietitians practice dietetics, which [RCW.138.010](#) (1) defines as “the integration and application of scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences in counseling people to achieve and maintain health.” Among other things, this might involve conducting research or helping individuals with complex health needs to manage nutrition.

At the national level, this profession is tightly regulated by an affiliated trio of organizations:

- Academy of Nutrition and Dietetics (Academy), a professional organization for dietitians;
- Accreditation Council for Education in Nutrition and Dietetics (ACEND), the Academy’s accreditation organization, which accredits educational programs for dietetics; and
- Commission on Dietetic Registration (CDR), the Academy’s credentialing agency, conducts the registration examination for dietitians.

Once they have met the Academy’s standards and completed the examination, many dietitians choose to maintain CDR membership as a “registered dietitian (RD)” or “registered dietitian nutritionist (RDN).” Current CDR registration is not a condition of becoming a certified dietitian in Washington; however, Washington does require examination passage as a condition of certification, so any qualifying applicant dietitian must have met the Academy/ACEND/CDR requirements at some point in the past.

Background on the Nutritionist Profession

Nutritionists provide general nutrition services, which RCW [18.138.010](#) (2) defines as “the counseling and/or educating of groups or individuals in the selection of food to meet normal nutritional needs for health maintenance.” The training of a nutritionist is less standardized than a dietitian’s and focuses on helping individuals improve their health through nutrition. This

WASHINGTON STATE DEPARTMENT OF HEALTH

might include planning nutritionally complete menus for facilities, individual counseling, research, or teaching general nutrition classes.

At the national level, there is relatively little standardization across the profession. Multiple professional organizations exist and may provide recommendations or accredit educational programs, but there is no single recognized standard.

Proposed Rules & Why Rulemaking is Necessary

The proposed amendments update chapter [246-822](#) WAC, Dietitians and Nutritionists. Amendments were drafted in collaboration with interested individuals, including certified dietitians, certified nutritionists, and professional organizations at the state and national levels. The Department of Health (department) held four rules workshops in fall 2022, and two rules workshop in 2019 where participants discussed possible amendments, made recommendations, and provided feedback on draft language. These proposed amendments will align chapter [246-822](#) WAC with current professional standards and best practices, clarify requirements for certification, address telehealth services, and address other topics as appropriate.

After the first public hearing on December 5, 2023 feedback was received from the professional organizations and interested individuals. Two additional drafts of the rule language were sent out to interested individuals via GovDelivery and feedback was used to create updated rule language and this supplemental significant analysis.

The original proposed rule was revised to include the following changes as proposed in this supplemental version:

- ***A definition of the “Nutrition Care Process” has been added to WAC 246-822-010 and is referenced in the minimum core curriculum section for registered dietitians in WAC 246-822-135.***
- ***Clarification and cross references have been made in a number of WAC sections including: WAC 246-822-120, 246-822-130, 246-822-132, 246-822-141, 246-822-147, and 246-822-160.***
- ***WAC 246-822-135 has been revised to add implementation of the nutrition care process and principles of medical nutrition therapy to the list of required coursework.***
- ***WAC 246-822-145 has been revised to require applicants complete the minimum core curriculum requirements, and complete a coordinated program that includes a supervised preprofessional experience that meets the requirements in WAC 246-822-141, dietitian supervised preprofessional experience. The new language also adds that a coordinated program accredited by ACNED satisfies the requirements of this section.***

- ***WAC 246-822-175 has been revised to simplify and clarify by removing the lists of services included in RCW 18.138.010. The new rule language continues to cite to RCW 18.138.010 as the definition of the scope for both professions.***

Rulemaking is necessary to update the department certification requirements and rules regulating the profession. This rulemaking was initiated at the request of Washington dietitians because chapter [246-822](#) WAC was outdated and no longer aligned with national professional standards for dietitians.

Attempting to update professional requirements without rulemaking would result in conflicts between department administrative rule, department practice, and national standards.

SECTION 2

Significant Analysis Requirement

As defined in RCW 34.05.328, portions of the rule require significant analysis because they establish, alter, or revoke qualifications or standards for the issuance, suspension, or revocation of a license, and make significant amendments to a regulatory program.

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
246-822-010 Definitions (amend)	Adding new definitions as necessary and updating existing definitions. <i>The definition of a “qualified provider” was amended to emphasize that one must be a registered dietitian. A definition of the “Nutrition Care Process” was included.</i>	This section is exempt under RCW 34.05.328(5)(b)(iv) because the defined terms clarify the meaning of the terms used throughout the chapter without changing the effect of the rule.
Repealing 246-822-020 General provisions 246-822-030 Mandatory reporting 246-822-040 Health care institutions 246-822-050 Dietitian or nutritionist associations or societies 246-822-060 Health care service contractors and disability	Repealing rules as they are no longer needed. Mandatory reporting is required under chapter 246-16 RCW. Chapter 18.130 RCW applies to all professions.	Repealed sections remove redundant requirements without material change. Exempt under RCW 34.05.328(5)(b)(iv).

insurance carriers 246-822-070 Professional liability carriers 246-822-080 Courts 246-822-090 State and federal agencies		
246-822-120 Nutritionist application requirements (amend)	Amending title and content of WAC 246- 822-120. Amendments clarify existing rule language by splitting application requirements into two separate WAC sections, one for each profession. WAC 246-822-120 will address nutritionists, while deleted language on dietitians will be moved to new rule section WAC 246-822-132. <i>Language in this section was amended to further clarify education requirements for nutritionists without changing the rules effect.</i>	Clarifies current requirements without changing its effect. Exempt under RCW 34.05.328(5)(b)(iv).
246-822-130 Nutritionist minimum core curriculum (amend)	Clarifying that coursework may be completed at the graduate or undergraduate level and must result in a master's or doctorate in nutrition. <i>Changes were made to align section 246-822-120 with 246-822-130 and clarify education requirements without changing its effect.</i>	Clarifies current requirements without changing its effect. Exempt under RCW 34.05.328(5)(b)(iv).

246-822-132 Dietitian application requirements (new)	Creating new rule section. Content is existing language, moved from WAC 246- 822-120 for clarity. <i>Reference to WAC 246-822-135, Dietitian minimum core curriculum and the exam was added to clarify education requirements for application purposes without changing the effect of 246-822-132.</i>	Clarifies current requirements without changing its effect. Exempt under RCW 34.05.328(5)(b)(iv).
246-822-170 (repeal)	Repealing rules as they are no longer needed.	Repealed section removes outdated language without material change. Exempt under RCW 34.05.328(5)(b)(iv).
246-822-990 (amend)	Makes a technical citation update.	Clarifies current requirements without changing its effect. Exempt under RCW 34.05.328(5)(b)(iv).

SECTION 3

Goals and objectives of the statute that the rule implements.

This rulemaking was initiated at the request of Washington dietitians because chapter [246-822](#) WAC was outdated and no longer aligned with national professional standards for dietitians. Statutory authority provided to the Secretary includes the authority to set rules on education, experience, continuing education, and other requirements for certification as a dietitian or certification as a nutritionist.

The proposed rules implement the statute's specific objectives and authority by:

- Updating definitions of educational standards for programs outside of the United States or Canada, creating clarity in determining equivalency;
- Clarifying supervision standards and qualified supervisors; and
- Supporting the overarching goal of chapter 18.138 RCW to assure protection of public health, safety and welfare.

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.

To achieve the goals and objectives of chapter [18.138](#) RCW, the department's rules must clearly establish certification requirements and the application process. However, chapter [246-822](#) WAC last received significant updates in 1991. As a result, it does not reflect current national professional standards or current department administrative processes. Rulemaking is required to update the outdated rules and establish certification requirements that align with current professional standards. Other measures, such as policy statements, would not provide the department sufficient authority to enforce new licensure standards and would result in conflicts between chapter [246-822](#) WAC and department guidance.

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 246-822-135 Dietitian minimum core curriculum.

Description: Proposed new rule section WAC 246-822-135 establishes minimum core curriculum requirements for certified dietitians. Currently, the department requires a minimum core curriculum for nutritionists, but not dietitians.

The proposed core curriculum for dietitians includes topics necessary for competent practice, including:

- research skills,
- the science of nutrition and dietetics,
- ***The nutrition care process and principles of medical nutrition therapy***
- food science,
- education and counseling techniques,
- public health policy, and
- professional practice skills.

While these curriculum components do not repeat ACEND accreditation standards¹ verbatim, they were developed to align with ACEND standards. As a result, any ACEND-accredited dietetics education program or substantially equivalent program would meet the proposed standards. Additionally, the rule includes a provision that states any ACEND-accredited program will satisfy the requirements of this section.

In order to sit for the examination, applicant dietitians are required by CDR to have attended an ACEND-accredited education program.² ***Changes in the rule text from the original draft simply clarify what is currently required to meet ACEND and CDR education requirements.***

Cost(s): Although these minimum curriculum requirements are being newly added to department rule, they are not new requirements for dietitians. Because Washington state requires applicant dietitians to pass CDR's dietetics examination, all applicants are indirectly required to have attended an ACEND-accredited education program. This has been in effect since the profession's establishment in Washington in 1991. Therefore, it is not anticipated that the newly proposed rule

¹ [2022-accreditation-standards-for-nutrition-and-dietetics-didactic-programs.pdf \(eatrightpro.org\)](#)

² "Individuals who only have degrees in nutrition, dietetics or other related areas from programs that are not ACEND-accredited are NOT ELIGIBLE to take the examination to become a Registered Dietitian Nutritionist or Dietetics Technician, Registered." [RD Examination—Eligibility Requirements - Commission on Dietetic Registration \(cdrnet.org\)](#)

will impose any additional costs, as it was written to align with ACEND accreditation standards for dietetics educational programs and the department assumes that dietitians already meet these ACEND's requirements.

Benefit(s): This proposed rule section clearly establishes the minimum education requirements that Washington considers necessary for certified dietitians. This is consistent with how the department regulates nutritionists, a closely related profession.

While these proposed requirements are heavily influenced by and align with ACEND's accreditation standards, establishing minimum education requirements provides clarity to both applicants and professionals. Additionally, it allows for the possibility of qualified applicants from non-ACEND educational programs. ***The addition of nutrition care process and principals of medical nutrition therapy addresses interested individuals concerns about these being left out of the earlier draft for core curriculum requirements.***

WAC 246-822-141 Dietitian supervised preprofessional experience.

Description: Proposed new rule section WAC 246-822-141 establishes requirements for a dietitian's supervised preprofessional experience. RCW [18.138.030](#) (1)(c) requires dietitians to complete supervised experience through either "continuous preprofessional experience" or a "coordinated undergraduate program." Currently the department provides its interpretation of continuing preprofessional experience in WAC [246-822-010](#), Definitions, rather than providing enforceable requirements in a significant rule.

The proposed new rule section refers to the statutory "continuous preprofessional experience" as "supervised preprofessional experience." Requirements for supervised preprofessional experience are:

- 900 hours of competency-based practice,
- Supervision by a qualified supervisor, and
- Experience that contributes to competency in listed practice areas, including professionalism, understanding scientific research, counseling clients from diverse backgrounds, and developing knowledge of health systems.

Additionally, the rule includes a provision that states an ACEND-accredited internship will satisfy the requirements of this section. ***Changes in the rule text from the original proposal consist of additional language to clarify that the practical experience must meet the competency standards of an ACEND accredited dietetic internship. These changes simply clarify what was already required to meet CDR's supervised experience requirements and further analysis is not needed.***

As discussed previously, the Academy, ACEND, and CDR coordinate to set professional standards, accredit dietetics educational programs, and conduct the dietetics examination. CDR requires applicants to complete supervised experience requirements before taking the examination. One form of experience recognized by CDR is the “dietetic internship,” which corresponds³ to the “continuous preprofessional experience” required by RCW [18.138.030](#).

Cost(s): Minimum requirements for supervised preprofessional experience are being newly added to rule, but they are not new requirements for dietitians. Because Washington state requires applicant dietitians to pass CDR’s dietetics examination and CDR requires individuals to complete qualifying supervised experience before taking the examination, all dietitian applicants are indirectly required to meet CDR’s supervised experience requirements⁴. This has most likely been in effect since the profession was established in Washington in the 1990s. It is not anticipated that the newly proposed standards for supervised preprofessional experience programs will impose any additional costs.⁵

The regulated community also believes these newly proposed standards will not impose any costs. During two rules workshops, department staff asked participants to respond to the poll question, “Will the standards drafted here place an added burden on applicant dietitians?” A majority of participants in attendance responded “No – they are already meeting these standards because of ACEND.” A minority of respondents were undecided. No one in attendance indicated that any additional time, money, or effort would be needed to meet the newly proposed standards.

Benefit(s): Establishing requirements in a significant rule will create enforceable standards as required by RCW [18.138.030](#) and provide clarity to dietitians and potential applicants. Currently, the department’s only standards for supervised preprofessional experience are expressed in a definition, an interpretive rule.

WAC 246-822-145 Dietitian coordinated program.

Description: Proposed new rule section WAC 246-822-145 establishes requirements for a coordinated program in dietetics. RCW [18.138.030](#) (1)(c) requires dietitians to complete supervised experience through either a “planned continuous preprofessional experience” or a

³ While ACEND dietetic internships are at least 1,000 hours, Washington’s continuous preprofessional experience is defined in RCW 18.138.030 to be at least 900 hours. Because dietitians have a very low rate of disciplinary actions, the department does not have justification for raising the minimum hours required above what is required by statute. [2022-accreditation-standards-for-nutrition-and-dietetics-internship-programs.pdf \(eatrightpro.org\)](#) 1.6

⁴ [2022-accreditation-standards-for-nutrition-and-dietetics-internship-programs.pdf \(eatrightpro.org\)](#)

⁵ [RD Examination—Eligibility Requirements - Commission on Dietetic Registration \(cdrnet.org\)](#)

“coordinated undergraduate program.” Currently there are no standards for a “coordinated undergraduate program” in rule.

The proposed new rule section refers to the statutory “coordinated undergraduate program” as a “coordinated program.” Requirements for a coordinated program in dietetics include concurrent completion of:

- At least 900 hours of supervised experience.
 - ***The updated rule text clarifies that the 900 hours of supervised experience has to meet the requirements of the dietitian supervised preprofessional experience included in WAC 246-822-141.***
- A dietetics program that meets curriculum requirements established in WAC 246-822-135.
- ***A coordinated program accredited by ACEND satisfies the requirements.***

The Academy, ACEND, and CDR coordinate to set professional standards, accredit dietetics educational programs, and conduct the dietetics examination. CDR requires applicants to complete supervised experience before their examination. A form of experience recognized by CDR is the “coordinated program,” which corresponds⁶ to the “coordinated undergraduate program” required by RCW [18.138.030](#). ***Changes in the rule text from the original proposal consists of language to clarify the dietitian coordinated program requirements and options.***

Cost(s): Minimum requirements for coordinated programs are being newly added to department rule, but they are not new requirements for dietitians. Because Washington state requires applicant dietitians to pass CDR’s dietetics examination and CDR requires individuals to complete qualifying supervised experience before taking the examination, all dietitian applicants are indirectly required to meet CDR’s supervised experience requirements. This has been in effect since the profession was established in Washington. It is not anticipated that the newly proposed standards for coordinated programs will impose any additional costs.⁷

The regulated community believes these new standards will not impose cost. During rules workshops, department staff asked participants to vote on whether the new coordinated program standards would impose additional cost on applicant dietitians. A majority of participants responded “No – they are already meeting these standards because of ACEND.” A minority of participants were undecided. No one indicated that additional time, money, or effort would be needed to meet the newly proposed standards.

⁶ While ACEND dietetic internships are at least 1000 hours, Washington’s continuous preprofessional experience is defined in RCW 18.138.030 to be at least 900 hours. Because dietitians have a very low rate of disciplinary actions, the department cannot justify raising the minimum hours required above what is required by statute. [2022-accreditation-standards-for-nutrition-and-dietetics-coordinated-programs.pdf \(eatrightpro.org\)](#) 1.6

⁷ ACEND coordinated programs combine at least 1,000 hours of supervised experience with a bachelor’s or graduate degree. [RD Examination—Eligibility Requirements - Commission on Dietetic Registration \(cdrnet.org\)](#)

Benefit(s): Establishing requirements for coordinated programs in rule will create enforceable standards as required by RCW [18.138.030](#) and provide clarity to dietitians and potential applicants. ***Changes to the rule language in this section have the benefit of clarifying what skills and competencies should be practiced while completing the required 900 hour supervised experience by cross referencing to WAC 245-822-141 and making it clear that an ACEND coordinated program satisfies the requirements of the dietitian coordinated program.***

WAC 246-822-147 Supervision and qualified supervisors.

Description: Proposed new rule section WAC 246-822-147 establishes requirements for supervision of individuals working toward certification as a dietitian. The rule establishes that a qualified supervisor provides oversight and takes responsibility for an individual working to meeting supervised experience requirements. It also establishes that a qualified supervisor must be certified by the department or registered ***as a registered dietitian nutritionist*** by CDR.

Additionally, the rule lists appropriate methods of supervision, including:

- Face-to-face supervision,
- Direct supervision,
- Distance supervision, and
- Review or written notes or recordings.

This section builds on pre-existing definitions of “supervision” and “qualified supervisor” to create enforceable supervision standards. Additionally, it specifies that distance supervision through remote technology may be used when appropriate for the services provided. ***Added language provides clarity that a qualified supervisor must be registered as a registered dietitian nutritionist by CDR, not simply registered by the CDR. It was previously assumed that one must be a registered dietitian nutritionist in order to be registered by the CDR, however interested individuals clarified that this is not always the case.***

Cost(s): It is not anticipated that the newly proposed standards for supervision and qualified supervisors are expected to impose any additional costs. Proposed rule language on qualified supervisors and methods of supervision is consistent with current definitions in WAC 246-822-010.

Benefit(s): Establishing requirements for supervision and qualified supervisors in rule will create enforceable standards as required by RCW [18.138.030](#) and provide clarity to dietitians and potential applicants.

WAC 246-822-150 Examination.

Description: Proposed amendments to WAC 246-822-150 update rule language to reflect the department's examination process. Amendments will replace current, outdated language and state that CDR's registered dietitian examination meets the department's examination requirements. The rule also adds that the department must receive examination scores directly from the testing organization.

Cost(s): RCW [18.138.030](#) gives the department authority to designate the required exam for dietitians. Although this has not been clearly reflected in rule, the department has required passage of the CDR examination – the only nationally-recognized examination for dietitians since the profession's establishment in the 1990s. Because this examination is required for prospective dietitians across the country, CDR examination costs are not new to applicants. The CDR registered dietitian examination costs \$200 for each attempt⁸, and most dietitians will spend \$200-400 to pass the examination.^{9, 10} The proposed rule requiring the CDR registered dietitian examination is not anticipated to impose new costs because current dietitians have already taken and passed the examination to become registered with CDR, certified by the department, or credentialed in another state. Applicant dietitians also consistently take the CDR examination as part of their chosen credentialing process. The primary impacts of the proposed rule are to memorialize the department's longstanding use of CDR's examination and to correct language which failed to specify the examination required for dietitians. The department does not anticipate any additional costs to the applicants as it is assumed current and applicant dietitians are already taking the CDR registered dietician examination.

Benefit(s): The proposed amendments will establish clear and accurate examination requirements for applicants. Additionally, it will remove inaccurate language stating that the department itself administers examinations.

WAC 246-822-160 Foreign degree equivalency

Description: Proposed amendments to WAC 246-822-160 update rule language to clarify the new requirements of having applicants' academic degree assessed by a credential evaluation service to be validated as substantially equivalent to education requirements. Amendments will replace current, outdated language and state that CDR's registered dietitian examination meets the department's examination requirements. The rule also adds that the department

⁸ [6697 Handbook \(cdrnet.org\)](#) pg 2

⁹ Approximately 66-72% of applicants pass the examination on their first attempt. Approximately 89% of applicants pass the examination within one year of their first attempt.

¹⁰ Approximately 66-72% of applicants pass the examination on their first attempt. Approximately 89% of applicants pass the examination within one year of their first attempt.

must receive examination scores directly from the testing organization. ***A citation to WAC 246-822-130, minimum core curriculum requirements for nutritionists has been included in the updated rule language. This cross reference was included for clarity and is not a significant change.***

Cost(s): Although these minimum curriculum requirements are being newly added to department rule, they are not new requirements for dietitians. Because Washington state requires applicant dietitians to pass CDR's dietetics examination, all applicants are indirectly required to have attended an ACEND-accredited education program. This has been in effect since the profession's establishment in Washington in 1991. Therefore, it is not anticipated that the newly proposed rule will impose any additional costs, as it was written to align with ACEND accreditation standards for dietetics educational programs and the department assumes that dietitians already meet these ACEND's requirements.

Benefit(s): Clarifying requirements for foreign degree equivalency in rule will create clear, enforceable standards as required by RCW [18.138.030](#) and provide clarity to potential applicants.

WAC 246-822-175 Providing Services

Description: Proposed new rule WAC 246-822-175, subsections (1) and (2) clarify the statutory scope of practice for certified dietitians and certified nutritionists. Because this language restates existing law, it is exempt from significant analysis. ***Subsections (1) and (2) were simplified in the supplemental proposed language to avoid including any law in the rule language and to reduce confusion.***

Subsection (3) establishes requirements for how certified dietitians and certified nutritionists provide telehealth services. The proposed rule clarifies that providers may provide telehealth services as appropriate to residents of Washington state based on the needs of the client. Currently the rule is silent on this.

Cost(s): The department anticipates these new requirements will not impose any additional costs on providers:

- **Appropriate services over telehealth:** The department does not anticipate any additional costs by requiring providers to only provide telehealth services that are "appropriate based on the needs of the client." Currently there is not any rule language about telehealth, therefore the status quo is assumed that providers are meeting patients in person or providing telehealth (that is appropriate for the client) and therefore the use of telehealth would not have any additional costs. A provider whose client's needs are not appropriate for telehealth would need to meet with the client in person, which would not provide any foreseen additional cost or burden as this is the

current practice. If the provider and client cannot meet in person, the provider may be required to make alternative arrangements to meet the client's needs, which is also current practice.

Benefit(s): During rules workshops with interested parties, dietitians requested the department provide guidance on telehealth treatment. ACEND and CDR defer to state law regarding telehealth, but Washington law and rules have been silent on this issue. The department expects the proposed new rule will provide clarity on how dietitians and nutritionists provide telehealth services.

- **Appropriate services over telehealth:** Adding that telehealth services must be “appropriate based on the needs of the client” requires that a client's needs and wellbeing are a provider's first priority. Depending on their health and personal circumstances, some clients may need in-person assistance for some or all services, on a limited or consistent basis. This language does, however, allow dietitians and nutritionists a large degree of discretion when deciding how to best assist individual clients.

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

The proposed rule amendments and new sections described above including any proposed changes made as part of the supplemental filing have no anticipated new costs. The proposed rules provide clear standards, consistent with national professional standards. The benefit of the proposed rules and new sections provide clear requirements for these regulated professionals to obtain a credential; provide clear allowable and prohibited tasks; update rule language with consistent rule writing standards; and provide safety for the public.

Determination

Probable Benefits greater than Probable Costs

The department has determined that the benefits outweigh the costs of the proposed rules. The benefits are that the proposed rules will set clear and accurate standards for dietitians and nutritionists, align dietitian professional requirements with national standards to the extent possible, and provide guidance on new issues confronting these professions.

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.

WAC 246-822-135 Dietitian minimum core curriculum

The proposed new rule will establish minimum curriculum requirements for dietitians and clarify that ACEND-accredited programs meet these requirements.

Alternatives considered:

- The department considered not establishing curriculum requirements in rule. However, this approach would fail to clearly articulate the department's standards for dietitians and would be inconsistent with department regulation of nutritionists, a similar profession under the same WAC chapter.
- The department also considered developing curriculum requirements independently of national standards. ***However, the existence of ACEND's well respected standards would make that approach unsuitable for Dietitians. The department considered establishing standards consistent with national professional standards set by ACEND, to the extent possible under Washington law that did not include reference to the nutrition care process. This approach was rejected because inclusion of the nutrition care process is important to contextualize the education requirements. This approach both clarifies the department's requirements for a dietitian's education and ensures that any applicant educated according to national professional standards will also be eligible for certification in Washington.***

Ultimately standards consistent with national profession standards set by ACEND that ***refer to medical nutrition therapy, as a part of the nutrition care process, were put forward.*** This approach both clarifies the department's requirements for a dietitian's education and ensures that any applicant educated according to national professional standards will also be eligible for certification in Washington while contextualizing the educational requirements appropriately.

WAC 246-822-141 Dietitian supervised preprofessional experience

The proposed new rule will establish minimum requirements for a dietitian's supervised preprofessional experience (referred to as "continuous preprofessional experience" in RCW

[18.138.030](#)), which is mentioned briefly in statute and defined in WAC, but has not previously been the subject of significant rulemaking.

Alternatives considered:

- The department considered continuing to refer to this type of experience as “continuous preprofessional experience,” consistent with statute. During workshops, however, this term created confusion because it is inconsistent with both terminology used by ACEND and CDR (“dietetic internship”) and terminology used by other health professions for similar experience (e.g. “supervised experience”). Updating the term to “supervised preprofessional experience” will help create clear, understandable standards, while still meeting the statutory requirements.
- The department considered leaving existing requirements for continuous preprofessional experience in WAC 246-822-010, Definitions. However, definitions are merely interpretive rule; creating standards in rule will allow the department to enforce these standards.
- The department also considered developing supervised preprofessional experience requirements independently of national standards. However, this would likely result in inconsistencies between Washington standards and national professional standards, which could raise barriers to certification for applicants trained or credentialed out of state.
- The department considered raising the minimum hour requirement from 900 hours to 1,000 hours for consistency with ACEND standards. Washington statute, however, sets the hour requirement at “not less than nine hundred hours.”¹¹ The department generally sets license requirements no higher than necessary to protect patient safety. Because there is such a low discipline rate¹² among dietitians and no substantial safety concerns, the department could not justify raising requirements above the statutory minimum.

Ultimately, the department established standards that largely align with national professional standards set by ACEND. This approach both clarifies the department’s requirements for a dietitian’s supervised experience and ensures that any applicant who completes an ACEND “dietetic internship” according to national professional standards will also be eligible for certification in Washington. ***It further clarifies that the ACEND’s competency requirements have been adopted in rule.***

¹¹ RCW 18.138.030 (2)(c)

¹² 2019-2021 Uniform Disciplinary Act (UDA) Report, available at: [2019-2021 Uniform Disciplinary Act \(UDA\) Report \(wa.gov\)](#)

WAC 246-822-145 Dietitian coordinated program

The proposed new rule will establish minimum requirements for a coordinated program in dietetics, which is mentioned briefly in statute, but is otherwise undefined. These new standards require concurrent completion of 900 hours of supervised experience, ***that meet the requirements in WAC 246-822-141***, and a dietetics education program that meets new curriculum requirements in WAC 246-822-135.

Alternatives considered:

- The department considered not addressing dietitian coordinated program standards in rule. This approach, however, would fail to articulate clear, enforceable standards for the profession.
- The department considered requiring applicants who complete a “coordinated undergraduate program” to obtain a master’s degree, rather than a bachelor’s degree. This change was suggested by many dietitians who participated in rules workshops, as ACEND will begin requiring a master’s degree for dietitians in 2024.¹³ Because the requirement for an undergraduate degree is established by statute¹⁴, the department is unable to align its standards with ACEND’s in this case. However, the department will now refer to a “coordinated undergraduate program” as a “coordinated program.” This will align department terminology with ACEND and CDR terminology and reduce confusion among applicants. Additionally, any applicant who has completed a master’s degree under ACEND’s new standards will continue to meet Washington state’s standards.
- When setting standards for a coordinated program, the department considered requiring 1,000 hours of practice. This would align with ACEND standards for coordinated programs, which also require 1,000 hours of practice.¹⁵ This approach, however, would result in a discrepancy between the amounts of practice hours required for the two educational tracks, supervised preprofessional experience and coordinated programs. The department decided to require 900 hours of practice, consistent with statutory standards¹⁶ and proposed department standards for supervised preprofessional experience. This approach will maintain consistent standards for all applicant dietitians in Washington, regardless of the education and supervised experience programs they complete.

¹³ [2024 Graduate Degree Requirement: Registration Examination Eligibility \(eatrightpro.org\)](https://eatrightpro.org/2024-graduate-degree-requirement-registration-examination-eligibility)

¹⁴ RCW 18.138.030 (2)(c)

¹⁵ [About Accredited Programs \(eatrightpro.org\)](https://eatrightpro.org/about-accredited-programs)

¹⁶ RCW 18.138.030 (2)(c)

WAC 246-822-147 Supervision and qualified supervisors

The proposed rule will establish who is considered a qualified supervisor, methods of supervision, and that distance supervision is not appropriate when a provider's physical presence is necessary to perform client services.

Alternatives considered:

- The department considered not addressing supervision through remote technology. When polled, however, 80% of rules workshop participants expressed that dietitians need guidance about how to provide telehealth and remote services.¹⁷ This proposed rule addresses remote supervision, while telehealth in general is addressed in proposed new rule WAC 246-822-175 (see below). Some participants also noted that different levels of supervision may be necessary for different services. To address these needs, the department listed a range of supervision methods, ranging from review of notes to distance supervision using remote technology, and clarified when distance supervision is inappropriate.
- The department also considered requiring dietitians to practice for several years before becoming eligible to serve as a qualified supervisor. Rules workshop participants, however, expressed that any **registered dietitian nutritionist** is competent to supervise students. Participants also reported that employers designate which dietitians are responsible for supervising students; not every dietitian acts as a supervisor. Given the extremely low discipline rate for dietitians, the department determined that setting a minimum experience requirement for qualified supervisors is unnecessary at this time.

WAC 246-822-150 Examinations

The proposed amendments to this rule designate CDR's registered dietitian examination as the examination recognized by the department. It also specifies that the department must receive scores directly from the testing organization.

Alternatives considered:

¹⁷ ACEND, which plays a large role in setting professional standards for dietitians, does not set standards for telehealth practice; instead, it directs dietitians to follow applicable state laws and rules. [Policy Regulation and Payment \(eatrightpro.org\)](#)

- The department considered stating that CDR administers the examination. Workshop participants advised that sometimes CDR uses third party contractors to administer the examination. In response, the department adjusted draft language to focus on the examination itself, rather than the entity administering the examination.

WAC 246-822-175 Providing services

Proposed new rule WAC 246-822-175, subsections (1) and (2) state the statutory scope of practice for certified dietitians and certified nutritionists.

Subsection (3) establishes requirements for how certified dietitians and certified nutritionists provide telehealth services. The proposed rule states providers may provide telehealth services as appropriate based on the needs of the client. Additionally, it requires that providers use HIPAA-compliant technology to discuss protected health information.

Alternatives considered in subsection 2:

- ***The department considered including the term "Nutrition Care Process" in subsection (2). However this was rejected because it was decided that including the term would lead to confusion and misinterpretation of scope of practice for dietitians. To avoid restating statute and reducing clarity, the department decided to cite back to the statutory scope of practice for certified dietitians in RCW 18.138.010.***

Alternatives considered in subsection 3:

- To safeguard clients' protected health information (PHI), the department considered requiring HIPAA-compliant technology for all telehealth services. In addition to counseling individual clients, however, dietitians and nutritionists may also provide services that do not involve PHI. For example, a provider may teach a webinar on general nutrition or help a residential facility plan a nutritionally complete menu for its residents. In these cases, there is no PHI and no compelling reason to use HIPAA-compliant technology. To balance protection of PHI and flexibility for the provider, the department is proposing rule language that only requires providers to use HIPAA-compliant technology for services that involve PHI.

New Section

Alternatives considered:

- The department considered requiring continuing education in health equity and suicide prevention for these professions. The department determined not to include this section in proposed rules as current statute does not require certified dietitians or certified nutritionists to complete continuing education as a condition of renewal. Additionally, this alternative would have required additional costs for the professionals.

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 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. In fact it reduces barriers for providers to services their patients more thoroughly.

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 applicable federal regulation or statute.

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 have been coordinated, to the maximum extent practicable, with applicable federal, state, and local laws. The proposed rules are consistent with state laws regulating dietitians and nutritionists and reinforce that telehealth services are subject to HIPAA requirements. Additionally, dietitian rules have been amended to correspond with national professional standards to the extent possible under Washington law.