

WSR 19-04-006
PROPOSED RULES
HEALTH CARE AUTHORITY

[Filed January 23, 2019, 3:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-12-029.

Title of Rule and Other Identifying Information: New chapter 182-524 WAC, COFA islander health care.

Hearing Location(s): On March 12, 2019, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Conference Room 106B, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at <https://www.hca.wa.gov/assets/program/Driving-parking-checkin-instructions.pdf> or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than March 13, 2019.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by March 12, 2019.

Assistance for Persons with Disabilities: Contact Amber Loughheed, phone 360-725-1349, fax 360-586-9727, telecommunication relay services 711, email amber.loughheed@hca.wa.gov, by March 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As directed by the legislature, the agency is creating rules to implement a premium assistance program for Pacific Islanders residing in Washington under a Compact of Free Association (COFA).

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: SSB 5683, 65th legislature, 2018 regular session, ESSB 6032 Section 213 (1)(hhh), (4)(d), 65th legislature 2018 regular session, RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Vance Taylor, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Dody McAlpine, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-9964.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

January 23, 2019
 Wendy Barcus
 Rules Coordinator

Chapter 182-524 WAC

COFA ISLANDER HEALTH CARE

NEW SECTION

WAC 182-524-0100 General. (1) Compact of Free Association (COFA) islander health care is a state-funded program administered by the health care authority (the agency) to pay the monthly premiums and out-of-pocket expenses for silver level qualified health plans for eligible COFA islanders.

(2) For the purpose of this chapter, "our," "us," and "we" refer to the agency or the agency's designee and "you" refers to the applicant for, or recipient of, COFA islander health care.

(3) You have the right to appeal any adverse agency action regarding COFA islander health care as described in chapter 182-526 WAC.

NEW SECTION

WAC 182-524-0200 Definitions. This section defines terms used in this chapter. See chapter 182-500 WAC for additional definitions.

"Advance premium tax credit (APTC)" - A tax credit taken in advance to lower a monthly health insurance payment (or premium).

"COFA islander" - A person who is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

"COFA islander health care" - An agency-administered program that pays the premium and out-of-pocket costs for a silver level qualified health plan for eligible COFA islanders.

"Compact of Free Association (COFA)" - A legal agreement between the government of the United States and the governments of the Federated States of Micronesia (U.S. Pub. L. 108-188); the Republic of the Marshall Islands (U.S. Pub. L. 108-188); and the Republic of Palau (U.S. Pub. L. 99-658).

"Cost-sharing funds" - Agency-provided funds for out-of-pocket costs.

"Out-of-pocket costs" - Copayments, coinsurance, deductibles, and other cost-sharing requirements imposed under a qualified health plan for services, pharmaceuticals, devices, and other health benefits covered by the plan and rendered as in-network. Excludes premiums, balance billing amounts for out-of-network providers, and spending for non-covered services.

"Premium cost" - A person's premium for a qualified health plan, minus the amount of the person's advanced premium tax credit.

"Silver level qualified health plan (QHP)" - Silver level indicates the category of a qualified health plan (QHP) offered by the Washington health benefit exchange (HBE). For a definition of QHP, see WAC 182-500-0090.

NEW SECTION

WAC 182-524-0250 How to apply. (1) COFA islanders age nineteen and older may apply for a qualified health plan (QHP) by:

- (a) Completing the application via the Washington Healthplanfinder web site at www.wahealthplanfinder.org;
- (b) Calling the Washington health benefit exchange (HBE) customer support center and completing an application by telephone;
- (c) Calling the COFA islander health care support line and completing an application by telephone; or
- (d) Completing the application for health care coverage (HCA 18-001P), and mailing or faxing to the HBE.

(2) When you submit an application for a QHP through HBE, you are automatically considered for COFA islander health care.

NEW SECTION

WAC 182-524-0300 Eligibility. In order to be eligible for state-funded COFA islander health care, you must enroll in a silver level qualified health plan (QHP) through the Washington health benefit exchange (HBE) during open enrollment or when you qualify for a special enrollment period as described in 45 C.F.R. 155.410 and 45 C.F.R. 155.420.

(1) You are eligible for state-funded COFA islander health care administered by us no earlier than January 1, 2019, if you:

- (a) Are a COFA islander;
- (b) Meet the residency requirements as described under WAC 182-524-0400;
- (c) Have household income, as defined under 26 C.F.R. 1.36B-1(e), under one hundred thirty-three percent of the federal poverty level (FPL);
- (d) Do not qualify for another federal or state medical assistance programs under chapter 74.09 RCW, that provides minimum essential coverage;

(e) Qualify for, and accept, the maximum advance premium tax credit available under 45 C.F.R. 155.305(f); and

(f) Are enrolled in a silver level QHP.

(2) Eligibility for COFA islander health care is subject to the availability of amounts appropriated for the program.

(3) You will be terminated from COFA islander health care if you:

(a) Do not meet the eligibility criteria under subsection (1) of this section; or

(b) Request termination.

(4) You may be terminated from COFA islander health care if you:

(a) Perform an act, practice, or omission that constitutes fraud, and an insurer rescinds your QHP policy; or

(b) Use your COFA islander health care cost-sharing funds to pay for anything other than out-of-pocket costs.

(5) We will reinstate your COFA islander health care if you were:

(a) Terminated in error; or

(b) Successful in your appeal of a termination.

(6) Your COFA islander health care begins the first day of the month following the month you meet the eligibility requirements as described in subsection (1) of this section.

(7) If you report a change that makes you eligible for COFA islander health care, your sponsorship begins either:

(a) The first day of the following month if the change was reported before the fifteenth of the month; or

(b) The first day of the month after the following month if the change was reported after the fifteenth of the month.

(8) Your COFA islander health care ends the day your enrollment in a silver level QHP ends or the last day of the month your COFA islander health care eligibility ends, whichever is earlier.

NEW SECTION

WAC 182-524-0400 Residency requirements. (1) This section applies only to residency requirement for COFA islander health care.

(2) A resident is a person who currently lives in Washington and:

(a) Intends to reside here, including people without a fixed address; or

(b) Entered the state looking for a job; or

(c) Entered the state with a job commitment.

(3) You do not need to live in the state for a specific period of time to meet the requirements in subsection (2) of this section.

(4) You can be temporarily out-of-state and remain on COFA islander health care if you:

(a) Intend to return once the purpose of your absence concludes; and

(b) Meet the eligibility requirements as described under WAC 182-524-0300.

NEW SECTION

WAC 182-524-0500 Notice requirements. (1) This section applies only to notices and letters that we send regarding COFA islander health care.

(2) We send you written notices (letters) when we:

(a) Approve you for COFA islander health care;

(b) Deny you for COFA islander health care;

(c) Change or terminate your eligibility from COFA islander health care; and

(d) Ask you for more information.

(3) All written notices we send to you include:

(a) The date of the notice;

(b) Specific contact information for you if you have questions or need help with the notice;

(c) The nature of the action;

(d) The effective date of the action;

(e) The facts and reasons for the action;

(f) Your appeal rights, if an appeal is available; and

(g) Other information required by the state.

(4) If we request information from you, we allow at least ten calendar days for you to submit requested information. If you ask, we may allow you more time to get us the information.

(a) If the due date falls on a weekend or a legal holiday as described in RCW 1.16.050, the due date is the next business day.

(b) We do not deny or terminate your eligibility when we ask you to provide information.

(c) If we do not receive your information by the due date, we make a determination based on all the information available.

(5) We send a written notice to you at least ten days before taking any adverse action. The ten-day notice period starts on the day we send the notice.

(6) We may send a notice fewer than ten days before the date of the adverse action if:

(a) You request the action;

(b) You request termination;

(c) A change in statute, federal regulation, or administrative rule is the sole cause of the action;

(d) You are incarcerated and expect to remain incarcerated at least thirty days;

(e) Mail sent to you is returned without a forwarding address and we do not have a more current address for you;

(f) You move out-of-state;

(g) You move to a county where your current silver level qualified health plan (QHP) is not available and you fail to select a new plan;

(h) You are eligible for medicare;

(i) You die;

(j) You begin receiving other state or federal medical assistance that provides minimum essential coverage; or

(k) Your silver level QHP is closed and you do not enroll in another silver level QHP.

NEW SECTION

WAC 182-524-0600 Payments. (1) We pay your silver level qualified health plan (QHP) premium costs directly to the QHP carrier unless we determine good cause exists to reimburse you for the premium costs.

(2) We pay your mandatory out-of-pocket costs separate from your premium costs through cost-sharing funds.

(3) Cost-sharing funds are only for your out-of-pocket costs.

(4) We will not pay for, or reimburse you for, costs not considered as out-of-pocket costs or expenses incurred by people not covered under COFA islander health care.

(5) You are responsible for ensuring the services you receive are covered under your QHP and rendered as in-network.

(6) We may stop payments of your silver level QHP premium costs and your cost-sharing funds when you:

(a) Fail to provide verification of payments through us or an agency-contracted vendor;

(b) Fail to respond to a request for information from us or an agency-contracted vendor;

(c) Misuse your cost-sharing funds by:

(i) Purchasing anything not considered an out-of-pocket cost; or

(ii) Allowing another person access to your cost-sharing funds.

(d) Are no longer eligible for COFA islander health care as described under WAC 182-524-0300.

(7) You must follow the requirements of any agency-contracted vendor that provides services enabling you to access your cost-sharing funds.

(8) We monitor payments and cost-sharing transactions under COFA islander health care.

WSR 19-04-022

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed January 25, 2019, 2:41 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 246-290-638 Analytical requirements, the proposal makes an amendment to adopt Environmental Protection Agency (EPA)-approved methods by reference for turbidimeters instead of listing each EPA-approved turbidimeter in the rule section.

Hearing Location(s): On March 12, 2019, at 10:00 a.m., at the Department of Health, Town Center East 2, Room 145, 111 Israel Road S.E., Tumwater, WA 98501.

Date of Intended Adoption: March 19, 2019.

Submit Written Comments to: Theresa Phillips, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, email <https://fortress.wa.gov/doh/policyreview>, by March 12, 2019.

Assistance for Persons with Disabilities: Contact Theresa Phillips, phone 360-236-3147, TTY 360-833-6388 or 711, email theresa.phillips@doh.wa.gov, by March 5, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 70.119A.-080 mandates the department to administer a drinking water program, also known as "primacy" which includes, but is not limited to, those program elements necessary to assume primary enforcement responsibility for Part B, and Section 1428 of Part C of the federal Safe Drinking Water Act (SDWA). Under the primacy agreement and SDWA, the department must adopt all federal rules to be at-least-as-stringent-as the federal rules. Group A public water systems are required to measure contaminants in drinking water. When EPA sets monitoring requirements under a federal rule, EPA also establishes standardized test procedures known as "approved methods." This proposal meets the intent of the statute by aligning the state rule with the federal rule.

Reasons Supporting Proposal: The department determined that adopting the EPA-approved monitoring methods by reference instead of listing every method in the rule is the best approach because EPA approves methods on a continuous basis. This approach will keep the department from having to use limited resources to update the rule each time EPA approves a new method, and it will allow public water sys-

tems to use the new methods as soon as EPA approves them without any delay between EPA adoption and state rule adoption.

Statutory Authority for Adoption: RCW 43.20.050, 34.05.365.

Statute Being Implemented: RCW 70.119A.080.

Rule is necessary because of federal law, SDWA, Part B and Section 1428 of Part C, and 40 C.F.R. Part 141.

Name of Proponent: Washington state department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Theresa Phillips, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3147; Implementation and Enforcement: Mike Means, 243 Israel Road S.E., Tumwater, WA 98501, 360-236-3178.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: RCW 70.119A.080 mandates the department to administer a drinking water program, also known as "primacy" which includes, but is not limited to, those program elements necessary to assume primary enforcement responsibility for Part B, and Section 1428 of Part C of the federal SDWA. Under the primacy agreement and SDWA, the department must adopt all federal rules to be at-least-as-stringent-as the federal rules. If the department does not adopt the proposed rule, the department would not have the authority to administer the federal SDWA.

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

January 24, 2019
Clark Halvorson
Assistant Secretary

AMENDATORY SECTION (Amending WSR 17-01-062, filed 12/14/16, effective 1/14/17)

WAC 246-290-638 Analytical requirements. (1) The purveyor shall ensure that only qualified persons conduct measurements for pH, temperature, turbidity, and residual disinfectant concentrations. In this section, qualified means:

- (a) A person certified under chapter 246-292 WAC;
- (b) An analyst, with experience conducting these measurements, from the state public health laboratory or another laboratory certified by the department;
- (c) A state or local health jurisdiction professional experienced in conducting these measurements; or
- (d) For the purpose of monitoring distribution system residual disinfectant concentration only, a person designated by and under the direct supervision of a waterworks operator certified under chapter 246-292 WAC.

(2) The purveyor shall ensure that measurements for temperature, turbidity, pH, and residual disinfectant concentration are made in accordance with "standard methods," or other EPA approved methods.

(3) The purveyor shall ensure that samples for coliform and HPC analysis are:

- (a) Collected and transported in accordance with department-approved methods; and
- (b) Submitted to the state public health laboratory or another laboratory certified by the department to conduct the analyses.

(4) Turbidity monitoring.

(a) The purveyor shall equip the system's water treatment facility laboratory with a:

- (i) Bench model turbidimeter; and
- (ii) Continuous turbidimeter and recorder if required under WAC 246-290-664 or 246-290-694.

(b) The purveyor shall ensure that bench model and continuous turbidimeters are:

- (i) Designed to meet the criteria in "standard methods," (~~EPA Method 180.1, Hach FilterTrak Method 10133, Hach Method 10258, AMI Turbiwell Method, or Great Lakes Instruments Method 2~~) approved methods under 40 C.F.R. 141.74 (a)(1), or alternative testing methods under Appendix A to Subpart C of 40 C.F.R. Part 141; and

(ii) Properly operated, calibrated, and maintained at all times in accordance with the manufacturer's recommendations.

(c) The purveyor shall validate continuous turbidity measurements for accuracy as follows:

- (i) Calibrate turbidity equipment based upon a primary standard in the expected range of measurements on at least a quarterly basis for instruments using an incandescent light source and on at least an annual basis for instruments using an LED or laser light source; and

(ii) Verify continuous turbidimeter performance on a weekly basis, not on consecutive days, with grab sample measurements made using a properly calibrated bench model turbidimeter.

(d) When continuous turbidity monitoring equipment fails, the purveyor shall measure turbidity on grab samples collected at least every four hours from the combined filter effluent and individual filters while the system serves water to the public and the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment online within five working days of failure.

(5) Purveyors shall verify instruments used for continuous monitoring of free and total chlorine residual with a grab sample measurement at least every five days, or with a protocol approved by the department as required under 40 C.F.R. 141.74 (a)(2).

(6) Purveyors monitoring for *Cryptosporidium* or *E. coli* as required under 40 C.F.R. 141.701 shall collect samples and have them analyzed under 40 C.F.R. 141.704 and 141.705.

A cost-benefit analysis is not required under RCW 34.05.328. These changes are technical in nature and have no fiscal impact.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 6 C.F.R. 37.

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

January 25, 2019
Damon Monroe
Rules Coordinator

WSR 19-04-023
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed January 25, 2019, 3:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-22-131.

Title of Rule and Other Identifying Information: WAC 308-105-020 Application for enhanced driver's license or identicard.

Hearing Location(s): On March 13, 2019, at 11:00 a.m., at the Highways-Licenses Building, Conference Room 413, 1125 Washington Street S.E., Olympia, WA 98507. Check in at the first floor counter.

Date of Intended Adoption: March 14, 2019.

Submit Written Comments to: Wendy Walker, Contracts and Initiatives Program Manager, Department of Licensing, P.O. Box 9030, Olympia, WA 98507-9030, email wewalker@dol.wa.gov, by March 12, 2019.

Assistance for Persons with Disabilities: Contact Wendy Walker, contracts and initiatives program manager, phone 360-902-4089, email wewalker@dol.wa.gov, by March 11, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making aligns with federal requirements and removes redundant language regarding signatures that are already required per law.

Reasons Supporting Proposal: This amendment will allow the state to stay in alignment with federal and state law.

Statutory Authority for Adoption: RCW 46.01.110 and 46.20.202.

Statute Being Implemented: RCW 46.20.202.

Rule is necessary because of federal law, 6 C.F.R. 37.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Wendy Walker, 1125 Washington Street S.E., Olympia, WA 98507, 360-902-4089.

A school district fiscal impact statement is not required under RCW 28A.305.135.

AMENDATORY SECTION (Amending WSR 07-22-031, filed 10/29/07, effective 11/29/07)

WAC 308-105-020 Application for enhanced driver's license or identicard. (1) An applicant for an enhanced driver's license must be eligible for a standard driver's license under chapter 46.20 RCW, provide the information required by RCW 46.20.091 and WAC 308-104-014, and establish his or her identity as provided by RCW 46.20.035 and WAC 308-104-040.

(2) An applicant for an enhanced identicard must be eligible for a standard identicard under chapter 46.20 RCW, provide the information required by RCW 46.20.117 and WAC 308-104-014, and establish his or her identity as provided by RCW 46.20.035 and WAC 308-104-040.

(3) ~~((An applicant for an enhanced driver's license or identicard must sign a declaration acknowledging that his or her photograph will be used as a facial recognition biometric identifier, and that he or she understands that the biometric identifier will be used in a one-to-many biometric matching system for purposes of verifying the identity of the applicant.~~

(4)) An applicant for an enhanced driver's license or identicard must sign a declaration acknowledging that he or she has been notified that the enhanced driver's license or identicard contains a radio frequency identification chip, that he or she has been given written information on the type of information the chip contains and how it may be used, and that tampering with or deactivating the chip will invalidate the enhanced driver's license or identicard for purposes of border crossing.

~~((5))~~ (4) An applicant for an enhanced driver's license or identicard must provide the department with satisfactory proof of United States citizenship. United States citizenship may be established by providing at least one of the following pieces of documentation:

(a) A United States passport that is valid ~~((or has been expired for no more than five years))~~;

(b) Certified state birth certificate;

(c) Certificate of naturalization;

(d) Certificate of citizenship; or

(e) Department of state consular report of birth abroad.

~~((6))~~ (5) An applicant for an enhanced driver's license or identocard must provide the department with satisfactory proof of residency in the state of Washington.

~~((7))~~ (6) An enhanced driver's license or identocard will not be issued to an applicant who is unable to provide the department with satisfactory proof required under this section.

WSR 19-04-032
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Pharmacy Quality Assurance Commission)
 [Filed January 28, 2019, 2:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-13-097.

Title of Rule and Other Identifying Information: WAC 246-901-130 Pharmacist to pharmacy technician ratio, the pharmacy quality assurance commission (commission) is proposing to amend the rule to eliminate a standardized pharmacist to pharmacy technician ratio in all practice settings. The proposed rules authorize the pharmacist to set the ratios based on their practice needs and ability to provide appropriate supervision.

Hearing Location(s): On April 26, 2019, at 1:15 p.m., at the Department of Health, Room 152/153, Point Plaza East, 310 Israel Road S.E., Tumwater, WA 98501.

Date of Intended Adoption: April 26, 2019.

Submit Written Comments to: Doreen Beebe, Department of Health, Pharmacy Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2260, by April 19, 2019.

Assistance for Persons with Disabilities: Contact Doreen Beebe, phone 360-236-4834, fax 360-236-2260, TTY 360-833-6388 or 711, email doreen.beebe@doh.wa.gov, by April 19, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule would permit the responsible pharmacist manager to use their professional judgement to determine the number of pharmacy technicians he or she can adequately supervise. This would potentially allow the pharmacist to perform more professional and clinical services and may lead to a reduction in health care costs and improved health outcomes through patient education and medication compliance. The proposed rule removes the standard ratio of one pharmacist to three pharmacy technicians, eliminating the need for pharmacies to submit requests for exception to be considered by the commission.

Reasons Supporting Proposal: The proposed rule is necessary to accommodate changes in the practice of pharmacy. Many pharmacies offer patients more than simply dispensing prescriptions; these services include specialized therapeutic review, medication therapy management, and patient adherence and persistence programs, among others. Pharmacy technology has also advanced with automation, interactive

voice response (IVR) systems, electronic processing/filling, and alternative counseling solutions, eliminating the need for some specific services to be performed by pharmacists or pharmacy technicians. The proposed rules would eliminate an outdated pharmacist to technician ratio to allow pharmacists the flexibility to maximize their resources to meet diverse patient needs.

Statutory Authority for Adoption: RCW 18.64A.040, 18.64.005.

Statute Being Implemented: RCW 18.64A.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, pharmacy quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Doreen Beebe, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4834; Implementation and Enforcement: Steven Saxe, Executive Director, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4853.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Doreen Beebe, Pharmacy Quality Assurance Commission, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4834, fax 360-236-2260, TTY 360-833-6388 or 711, email wspqac@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not mandate a change in the operation or staffing of a pharmacy. The proposed rule is permissive and provides flexibility for pharmacies in meeting patient and operational needs.

January 28, 2019
 Tim Lynch, PharmD, MS, Chair
 Pharmacy Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 00-15-081, filed 7/19/00, effective 8/19/00)

WAC 246-901-130 Pharmacist to pharmacy technician ratio. ~~((1) A standard ratio of one pharmacist to a maximum of three technicians is established for each licensed pharmacy.~~

~~(2) The pharmacist must be actively practicing pharmacy.~~

~~(3) In determining which pharmacists may be included in the calculation of the ratio, the board will consider approval of pharmacy technician utilization plans which include all pharmacists within the pharmacy who are engaged in the actual practice of pharmacy. When the pharmacy provides service to inpatients of a hospital or extended care facility, pharmacists who are practicing pharmacy outside of the confines of the licensed pharmacy (for example, performing nursing unit inspections, reviewing charts, consulting with health professional staff) may be included in the ratio, if:~~

~~(a) There are sufficient numbers of pharmacists within the pharmacy to properly supervise the work of the pharmacy technicians;~~

~~(b) The pharmacy is not open to the public;~~
~~(c) The medications are being checked by another health professional before being given to the patient;~~
~~(d) Drug orders are not dispensed from the pharmacy without being checked by a licensed pharmacist or pharmacy intern except for board-approved pharmacy technician specialized functions provided a pharmacy technician may check unit-dose medication cassettes.)~~ (1) The ratio of pharmacy technicians to pharmacist(s) on duty is to be determined by the responsible pharmacy manager.
 (2) The responsible pharmacy manager will ensure that the number of pharmacy technicians on duty can be satisfactorily supervised by the pharmacist(s) on duty.

WSR 19-04-033
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed January 28, 2019, 2:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-14-019.

Title of Rule and Other Identifying Information: Chapter 246-341 WAC, Behavioral health services administrative requirements, the department of health (DOH) is proposing to adopt licensing and certification rules for behavioral health services per the transfer of authority from the department of social and health services (DSHS).

Hearing Location(s): On March 12, 2019, at 2:00 p.m., at DOH, Point Plaza East, Conference Rooms 152-153, 310 Israel Road S.E., Tumwater, WA 98501.

Date of Intended Adoption: March 19, 2019.

Submit Written Comments to: Julie Tomaro, P.O. Box 47843, Olympia, WA 98504-7843, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2321, by March 12, 2019.

Assistance for Persons with Disabilities: Contact Julie Tomaro, phone 360-236-2937, TTY 360-833-6388 or 711, email julie.tomaro@doh.wa.gov, by March 5, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 246-341 WAC, Behavioral health services administrative requirements, the department is proposing to adopt rules regarding the licensing and certification of behavioral health services that were adopted as emergency rules effective July 1, 2018, when the authority for behavioral health agency licensing and certification transferred from DSHS to the department according to 2ESHB 1388 (chapter 201, Laws of 2018). These proposed rules, when permanently adopted, will replace and supersede the emergency rules. There are no changes between these proposed rules and the emergency rule filing. These proposed rules are substantially the same as the "single set" of licensing and certification rules in chapter 388-877 WAC filed by the DSHS division of behavioral health and recovery as WSR 18-06-043 that were repealed by DSHS as a result of 2ESHB 1388.

The following is a summary of the differences between these proposed rules and the requirements that were initially required by DSHS. The department:

1. Changed all WAC title and chapter numbers and internal references from WAC 388-877-XXXX to WAC 246-341-XXXX. For example, WAC 388-877-0100 became WAC 246-341-0100.

2. Changed the names of state organizations throughout the document consistent with the transfer of authority under 2ESHB 1388.

3. Removed specific information about the DSHS grievance process and added cross references to health care authority (HCA) rules in chapter 182-538D WAC.

4. Added a new certification for assisted outpatient behavioral health treatment as described in ESSB 6491.

5. Adjusted definitions to reflect duties transferred to DOH and HCA.

6. Changed information about where and how to send in licensure applications.

7. Changed how the department sends a behavioral health agency a statement of deficiencies report.

8. Added a statement that indicates that the department may summarily suspend an agency's license or certification when an immediate danger to public health, safety, or welfare requires emergency action.

9. Updated the directions on how to appeal a decision made by the department regarding licensure or certification.

10. Added a cross reference to requirements for adult secure withdrawal management and stabilization services in the youth section that was inadvertently left out of the DSHS single set but was in rule prior to April 2018.

11. Added an exemption for state psychiatric hospitals, United States Veterans Administration facilities, and other federal facilities for inpatient behavioral health services that was inadvertently left out of the DSHS single set but was in rule prior to April 2018.

Reasons Supporting Proposal: The passing of 2ESHB 1388 transferred authority and responsibility for behavioral health agency licensing and certification from DSHS to the department on July 1, 2018. Because the law transferred authority to adopt rules to the department on the same day the department began enforcing them, emergency rules were required to preserve continuity of certification and licensing functions of behavioral health agencies. The department is proposing to adopt as permanent rules existing emergency rules so they are easier to locate and use, and then plans to immediately file a new CR-101 preproposal statement of inquiry to begin work with stakeholders to completely redesign the rules.

Rules are needed to enable the department to certify agencies that provide less restrictive alternative treatment for individuals needing assisted outpatient substance use disorder treatment as allowed in section 3 of ESSB 6491. Without this certification in rule, there will be no agencies certified to provide this new treatment category, which could potentially lead to individuals being inappropriately housed in a locked, secure inpatient facility for longer than the court deems necessary or being released due to the lack of a department-certified agency able to serve these individuals. The department, in the emergency rules enacted on July 1, expanded WAC 246-341-0805 to include the ability to provide these services and these proposed rules include this new expansion.

Statutory Authority for Adoption: 2ESHB 1388 (chapter 201, Laws of 2018).

Statute Being Implemented: 2ESHB 1388 (chapter 201, Laws of 2018), ESSB 6491 (chapter 291, Laws of 2018).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Julie Tomaro, 111 Israel Road S.E., Tumwater, WA 98504, 360-236-2937.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Julie Tomaro, P.O. Box 47843, Olympia, WA 98504-7843, phone 360-236-2937, fax 360-236-2321, TTY 360-833-6388 or 711, email julie.tomaro@doh.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Consideration of a small business economic impact statement is not required for most of this proposed rule, but is required for the proposed requirements to implement the new substance use disorder treatment outlined in ESSB 6491 (chapter 291, Laws of 2018), which can be found in WAC 246-341-0805. Portions of the proposal are exempt under RCW 19.85.025(3), including the following:

RCW 34.05.310 (4)(c) (Incorporation by reference).

RCW 34.05.310 (4)(d) (Correct or clarify language).

RCW 34.05.310 (4)(e) (Dictated by statute).

RCW 34.05.310 (4)(f) (Set or adjust fees).

RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency).

The department anticipates no new costs associated with the proposed changes to WAC 246-341-0805. There are no new costs to behavioral health agencies associated with providing less restrictive alternative treatment to persons who are involuntarily detained for a substance use disorder.

The department is proposing to implement ESSB 6491 in a way that expands an existing certification to allow behavioral health agencies to be reimbursed for providing less restrictive alternative services to persons who are detained for a substance use disorders. This proposed expansion allows for, but does not require, an agency to provide substance use disorder services.

The department is proposing to amend this WAC section in this manner so that behavioral health agencies who provide less restrictive alternative services would not need to pay a new fee to obtain an additional certification to serve persons.

January 24, 2019

John Wiesman, DrPH, MPH
Secretary

Chapter 246-341 WAC

BEHAVIORAL HEALTH SERVICES ADMINISTRATIVE REQUIREMENTS

SECTION ONE—BEHAVIORAL HEALTH SERVICES—PURPOSE AND SCOPE

NEW SECTION

WAC 246-341-0100 Behavioral health services—Purpose and scope. (1) The rules in this chapter provide a single set of rules for agencies to follow that provide any one or more of the following behavioral health services:

- (a) Mental health services;
 - (b) Substance use disorder services;
 - (c) Co-occurring services (services to individuals with co-existing mental health and substance use disorders); and
 - (d) Problem and pathological gambling;
- (2) These rules establish the following for agencies that provide behavioral health services:

- (a) Licensure and certification requirements;
- (b) Agency administrative requirements;
- (c) Agency personnel requirements; and
- (d) Agency clinical policies and procedures.

NEW SECTION

WAC 246-341-0110 Behavioral health services—Available certifications. A behavioral health agency licensed by the department may become certified to provide one or more of the mental health, substance use disorder, and problem and pathological gambling services listed below:

- (1) Outpatient:
 - (a) Individual mental health treatment services;
 - (b) Brief mental health intervention treatment services;
 - (c) Group mental health therapy services;
 - (d) Family therapy mental health services;
 - (e) Rehabilitative case management mental health services;
 - (f) Psychiatric medication mental health services and medication support services;
 - (g) Day support mental health services;
 - (h) Mental health outpatient services provided in a residential treatment facility (RTF);
 - (i) Recovery support: Supported employment mental health services;
 - (j) Recovery support: Supported employment substance use disorder services;
 - (k) Recovery support: Supportive housing mental health services;
 - (l) Recovery support: Supportive housing substance use disorder services;
 - (m) Recovery support: Peer support mental health services;
 - (n) Recovery support: Wraparound facilitation mental health services;
 - (o) Recovery support: Applied behavior analysis (ABA) mental health services;
 - (p) Consumer-run recovery support: Clubhouse mental health services;

- (q) Substance use disorder level one outpatient services;
- (r) Substance use disorder level two intensive outpatient services;
- (s) Substance use disorder assessment only services;
- (t) Substance use disorder alcohol and drug information school services;
- (u) Substance use disorder information and crisis services;
- (v) Substance use disorder emergency service patrol services;
- (w) Substance use disorder screening and brief intervention services; and
- (x) Problem and pathological gambling services.
- (2) Involuntary and court-ordered outpatient services:
 - (a) Less restrictive alternative (LRA) or conditional release support behavioral health services;
 - (b) Emergency involuntary detention designated crisis responder (DCR) mental health and substance use disorder services;
 - (c) Substance use disorder counseling services subject to RCW 46.61.5056; and
 - (d) Driving under the influence (DUI) substance use disorder assessment services.
- (3) Crisis mental health services:
 - (a) Crisis mental health telephone support services;
 - (b) Crisis mental health outreach services;
 - (c) Crisis mental health stabilization services; and
 - (d) Crisis mental health peer support services.
- (4) Opioid treatment program (OTP) services.
- (5) Withdrawal management, residential substance use disorder treatment, and mental health inpatient services:
 - (a) Withdrawal management facility services:
 - (i) Withdrawal management services - Adult;
 - (ii) Withdrawal management services - Youth;
 - (iii) Secure withdrawal management and stabilization services - Adult; and
 - (iv) Secure withdrawal management and stabilization services - Youth.
 - (b) Residential substance use disorder treatment services:
 - (i) Intensive substance use disorder inpatient services;
 - (ii) Recovery house services;
 - (iii) Long-term treatment services; and
 - (iv) Youth residential services.
 - (c) Mental health inpatient services:
 - (i) Evaluation and treatment services - Adult;
 - (ii) Evaluation and treatment services - Youth;
 - (iii) Child long-term inpatient program services;
 - (iv) Crisis stabilization unit services;
 - (v) Triage - Involuntary services;
 - (vi) Triage - Voluntary services; and
 - (vii) Competency evaluation and restoration treatment services.

SECTION TWO—BEHAVIORAL HEALTH SERVICES—DEFINITIONS

NEW SECTION

WAC 246-341-0200 Behavioral health services—Definitions. The definitions in this section contain words and phrases used for behavioral health services.

"Absentee coverage" means the temporary replacement a clubhouse provides for the clubhouse member who is currently employed in a time-limited, part-time community job managed by the clubhouse.

"Administrator" means the designated person responsible for the operation of either the licensed treatment agency, or certified treatment service, or both.

"Adult" means an individual eighteen years of age or older. For purposes of the medicaid program, adult means an individual twenty-one years of age or older.

"ASAM criteria" means admission, continued service, and discharge criteria for the treatment of substance use disorders as published by the American Society of Addiction Medicine (ASAM).

"Assessment" means the process of obtaining all pertinent bio-psychosocial information, as identified by the individual, and family and collateral sources, for determining a diagnosis and to plan individualized services and supports.

"Authority" means the Washington state health care authority.

"Background check" means a search for criminal history record information that includes nonconviction data. A background check may include a national fingerprint-based background check, including a Federal Bureau of Investigation criminal history search.

"Behavioral health" means the prevention, treatment of, and recovery from any or all of the following disorders: Substance use disorders, mental health disorders, or problem and pathological gambling disorders.

"Behavioral health agency" or "agency" means an entity licensed by the department to provide behavioral health services.

"Behavioral health organization" or "BHO" means any county authority or group of county authorities or other entity recognized by the health care authority in contract in a defined region.

"Branch site" means a physically separate licensed site, governed by a parent organization, where qualified staff provides certified treatment services.

"Care coordination" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs of an individual. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies, organizing, facilitating and participating in team meetings, and providing for continuity of care by creating linkages to and managing transitions between levels of care.

"Certified" or "certification" means the status given by the department to provide substance use disorder, mental health, and problem and pathological gambling program-specific services.

"Certified problem gambling counselor" is an individual certified gambling counselor (WSCGC) or a nationally certified gambling counselor (NCGC), certified by the Washington State Gambling Counselor Certification Committee or the International Gambling Counselor Certification Board to provide problem and pathological gambling treatment services.

"Change in ownership" means one of the following:

(a) The ownership of a licensed behavioral health agency changes from one distinct legal owner to another distinct legal owner;

(b) The type of business changes from one type to another, such as, from a sole proprietorship to a corporation; or

(c) The current ownership takes on a new owner of five per cent or more of the organizational assets.

"Chemical dependency professional" or "CDP" means a person credentialed by the department as a chemical dependency professional (CDP) under chapter 246-811 WAC.

"Child," "minor," and "youth" mean:

(a) An individual under the age of eighteen years; or

(b) An individual age eighteen to twenty-one years who is eligible to receive and who elects to receive an early and periodic screening, diagnostic, and treatment (EPSDT) medicaid service. An individual age eighteen to twenty-one years who receives EPSDT services is not considered a "child" for any other purpose.

"Child mental health specialist" means a mental health professional with the following education and experience:

(a) A minimum of one hundred actual hours (not quarter or semester hours) of special training in child development and the treatment of children with serious emotional disturbance and their families; and

(b) The equivalent of one year of full-time experience in the treatment of seriously emotionally disturbed children and their families under the supervision of a child mental health specialist.

"Clinical record" means either a paper, or electronic file, or both that is maintained by the behavioral health agency and contains pertinent psychological, medical, and clinical information for each individual served.

"Clinical supervision" means regular and periodic activities performed by a professional licensed or certified under Title 18 RCW practicing within their scope of practice. Clinical supervision includes review of assessment, diagnostic formulation, treatment planning, progress toward completion of care, identification of barriers to care, continuation of services, authorization of care, and the direct observation of the delivery of clinical care.

"Clubhouse" means a community-based, recovery-focused program designed to support individuals living with the effects of mental illness, through employment, shared contributions, and relationship building. A clubhouse operates under the fundamental principle that everyone has the potential to make productive contributions by focusing on the strengths, talents, and abilities of all members and fostering a sense of community and partnership.

"Community mental health agency" means the same as "behavioral health agency."

"Community relations plan" means a plan to minimize the impact of an opioid treatment program as defined by the Center for Substance Abuse Guidelines for the Accreditation of Opioid Treatment Programs, section 2.C.(4).

"Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum:

(a) Assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week;

(b) Prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law;

(c) Screening for patients being considered for admission to residential services;

(d) Diagnosis and treatment for children who are mentally or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment (EPSDT) program;

(e) Investigation, legal, and other nonresidential services under chapter 71.05 RCW;

(f) Case management services;

(g) Psychiatric treatment including medication supervision;

(h) Counseling;

(i) Psychotherapy;

(j) Assuring transfer of relevant patient information between service providers;

(k) Recovery services; and

(l) Other services determined by behavioral health organizations.

"Complaint" means an alleged violation of licensing or certification requirements under chapters 71.05, 71.12, 71.24, 71.34 RCW, and this chapter, which has been authorized by the department for investigation.

"Consent" means agreement given by an individual after the person is provided with a description of the nature, character, anticipated results of proposed treatments and the recognized serious possible risks, complications, and anticipated benefits, including alternatives and nontreatment, that must be provided in a terminology that the person can reasonably be expected to understand.

"Consultation" means the clinical review and development of recommendations by persons with appropriate knowledge and experience regarding activities or decisions of clinical staff, contracted employees, volunteers, or students.

"Co-occurring disorder" means the co-existence of both a mental health and a substance use disorder. Co-occurring treatment is a unified treatment approach intended to treat both disorders within the context of a primary treatment relationship or treatment setting.

"Crisis" means an actual or perceived urgent or emergent situation that occurs when an individual's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual's mental or physical health, or to prevent the need for referral to a significantly higher level of care.

"Critical incident" means any one of the following events:

(a) Any death, serious injury, or sexual assault that occurs at an agency that is licensed by the department;

(b) Alleged abuse or neglect of an individual receiving services, that is of a serious or emergency nature, by an employee, volunteer, licensee, contractor, or another individual receiving services;

(c) A natural disaster, such as an earthquake, volcanic eruption, tsunami, urban fire, flood, or outbreak of communicable disease that presents substantial threat to facility operation or client safety;

(d) A bomb threat;

(e) Theft or loss of data in any form regarding an individual receiving services, such as a missing or stolen computer, or a missing or stolen computer disc or flash drive;

(f) Suicide attempt at the facility;

(g) An error in program-administered medication at an outpatient facility that results in adverse effects for the individual and requires urgent medical intervention; and

(h) Any media event regarding an individual receiving services, or regarding a staff member or owner(s) of the agency.

"Cultural competence" or "culturally competent" means the ability to recognize and respond to health-related beliefs and cultural values, disease incidence and prevalence, and treatment efficacy. Examples of culturally competent care include striving to overcome cultural, language, and communications barriers, providing an environment in which individuals from diverse cultural backgrounds feel comfortable discussing their cultural health beliefs and practices in the context of negotiating treatment options, encouraging individuals to express their spiritual beliefs and cultural practices, and being familiar with and respectful of various traditional healing systems and beliefs and, where appropriate, integrating these approaches into treatment plans.

"Deemed" means a status that may be given to a licensed behavioral health agency as a result of the agency receiving accreditation by a recognized behavioral health accrediting body which has a current agreement with the department.

"Department" means the Washington state department of health.

"Designated crisis responder" or "DCR" means a mental health professional appointed by the county or the BHO who is authorized to conduct investigations, detain persons up to seventy-two hours at the proper facility, and carry out the other functions identified in chapters 71.05 and 71.34 RCW. To qualify as a designated crisis responder, a person must complete substance use disorder training specific to the duties of a designated crisis responder.

"Disability" means a physical or mental impairment that substantially limits one or more major life activities of the individual and the individual:

(a) Has a record of such an impairment; or

(b) Is regarded as having such impairment.

"Early and periodic screening, diagnosis and treatment" or "EPSDT" means a comprehensive child health medicaid program that entitles individuals age twenty and younger to preventive care and treatment services. These services are outlined in chapter 182-534 WAC.

"Governing body" means the entity with legal authority and responsibility for the operation of the behavioral health agency, to include its officers, board of directors or the trustees of a corporation or limited liability company.

"Grievance" means the same as defined in WAC 182-538D-0655.

"HIV/AIDS brief risk intervention" means a face-to-face interview with an individual to help the individual assess personal risk for HIV/AIDS infection and discuss methods to reduce infection transmission.

"Individual" means a person who applies for, is eligible for, or receives behavioral health services from an agency licensed by the department.

"Less restrictive alternative (LRA)" means court ordered outpatient treatment in a setting less restrictive than total confinement.

"Licensed" or "licensure" means the status given to behavioral health agencies by the department under its authority to license and certify mental health and substance use disorder programs under chapters 71.05, 71.12, 71.34, and 71.24 RCW and its authority to certify problem and pathological gambling treatment programs under RCW 43.20A.890.

"Medical necessity" or "medically necessary" is a term for describing a required service that is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions in the recipient that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. Course of treatment may include mere observation or, where appropriate, no treatment at all.

"Medical practitioner" means a physician, advance registered nurse practitioner (ARNP), or certified physician assistant. An ARNP and a midwife with prescriptive authority may perform practitioner functions related only to specific specialty services.

"Medication administration" means the direct application of a medication or device by ingestion, inhalation, injection or any other means, whether self-administered by a resident, or administered by a guardian (for a minor), or an authorized health care provider.

"Mental health disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

"Mental health professional" or "MHP" means a designation given by the department to an agency staff member or an attestation by the licensed behavioral health agency that the person meets the following:

(a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), psychiatric nurse, or social worker as defined in chapters 71.05 and 71.34 RCW;

(b) A person who is licensed by the department as a mental health counselor or mental health counselor associate, marriage and family therapist, or marriage and family therapist associate;

(c) A person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university who has at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, experience that was gained under the supervision of a mental health professional recognized by the department or attested to by the licensed behavioral health agency;

(d) A person who meets the waiver criteria of RCW 71.24.260, and the waiver was granted prior to 1986; or

(e) A person who had an approved waiver to perform the duties of a mental health professional (MHP), that was requested by the behavioral health organization (BHO) and granted by the mental health division prior to July 1, 2001.

"Minor" means the same as "child."

"Off-site" means the provision of services by a provider from a licensed behavioral health agency at a location where the assessment or treatment is not the primary purpose of the site, such as in schools, hospitals, long-term care facilities, correctional facilities, an individual's residence, the community, or housing provided by or under an agreement with the agency.

"Outpatient services" means behavioral health treatment services provided to an individual in a nonresidential setting. A residential treatment facility (RTF) may become certified to provide outpatient services.

"Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

"Peer counselor" means the same as defined in WAC 182-538D-0200.

"Probation" means a licensing or certification status resulting from a finding of deficiencies that requires immediate corrective action to maintain licensure or certification.

"Problem and pathological gambling" means one or more of the following disorders:

(a) "Pathological gambling" means a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences;

(b) "Problem gambling" is an earlier stage of pathological gambling that compromises, disrupts, or damages family or personal relationships or vocational pursuits.

"Progress notes" means permanent written or electronic record of services and supports provided to an individual documenting the individual's participation in, and response to, treatment, progress in recovery, and progress toward intended outcomes.

"Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

"Relocation" means a physical change in location from one address to another.

"Remodeling" means expanding existing office space to additional office space at the same address, or remodeling interior walls and space within existing office space to a degree that accessibility to or within the facility is impacted.

"Secretary" means the secretary of the department of health.

"Service area" means the geographic area covered by each behavioral health organization (BHO) for which it is responsible.

"Short-term facility" means a facility licensed and certified by the department of health under RCW 71.24.035 which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization. Length of stay in a short-term facility is less than fourteen days from the day of admission.

"State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for delivery of behavioral health services.

"Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

"Summary suspension" means the immediate suspension of either a facility's license or program-specific certification or both by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department.

"Supervision" means the regular monitoring of the administrative, clinical, or clerical work performance of a staff member, trainee, student, volunteer, or employee on contract by a person with the authority to give direction and require change.

"Suspend" means termination of a behavioral health agency's license or program specific certification to provide behavioral health treatment program service for a specified period or until specific conditions have been met and the department notifies the agency of the program's reinstatement of license or certification.

"Triage facility" means a short-term facility or a portion of a facility licensed and certified by the department under RCW 71.24.035 that is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual. A triage facility must meet department residential treatment facility standards and may be structured as either a voluntary or involuntary placement facility or both.

"Triage involuntary placement facility" means a triage facility that has elected to operate as an involuntary facility and may, at the direction of a peace officer, hold an individual for up to twelve hours. A peace officer or designated crisis responder may take or cause the person to be taken into custody and immediately delivered to the triage facility. The facility may ask for an involuntarily admitted individual to be assessed by a mental health professional for potential for voluntary admission. The individual has to agree in writing to the conditions of the voluntary admission.

"Triage voluntary placement facility" means a triage facility where the individual may elect to leave the facility of their own accord, at any time. A triage voluntary placement facility may only accept voluntary admissions.

"Tribal authority" means, for the purposes of behavioral health organizations and RCW 71.24.300 only, the federally recognized Indian tribes and the major Indian organizations recognized by the secretary as long as these organizations do not have a financial relationship with any behavioral health organization that would present a conflict of interest.

"Vulnerable adult" has the same meaning as defined in chapter 74.34 RCW.

"Withdrawal management" means services provided during the initial period of care and treatment to an individual intoxicated or incapacitated by substance use.

"Work-ordered day" means a model used to organize clubhouse activities during the clubhouse's normal working hours. Members and staff are organized into one or more work units which provide meaningful and engaging work essential to running the clubhouse. Activities include unit meetings, planning, organizing the work of the day, and performing the work that needs to be accomplished to keep the clubhouse functioning. Members and staff work side-by-side as colleagues. Members participate as they feel ready and according to their individual interests. While intended to provide members with working experience, work in the clubhouse is not intended to be job-specific training, and members are neither paid for clubhouse work nor provided artificial rewards. Work-ordered day does not include medication clinics, day treatment, or other therapy programs.

"Youth" means the same as "child."

SECTION THREE—BEHAVIORAL HEALTH SERVICES—AGENCY LICENSURE AND CERTIFICATION

NEW SECTION

WAC 246-341-0300 Agency licensure and certification—General information. The department licenses agencies to provide behavioral health treatment services. To gain and maintain licensure, an applicant must meet the requirements of this chapter, applicable local and state rules, and state and federal statutes. In addition, the applicant must meet the applicable specific program requirements for all behavioral health services certified by the department.

(1) An applicant currently accredited by a national accreditation agency recognized by and having a current agreement with the department may be eligible for licensing through deeming. See WAC 246-341-0310.

(2) An agency must report to the department any changes that occur following the initial licensing or certification process. The department may request a copy of additional disclosure statements or background inquiries if there is reason to believe that offenses specified under RCW 43.43.830 have occurred since the original application was submitted.

(3) The department may grant an exemption or waiver from compliance with specific licensing or program certification requirements if the exemption does not violate an existing state, federal, or tribal law.

(a) To request an exemption to a rule in this chapter, the applicant must:

(i) Submit the request in writing to the department;

(ii) Assure the exemption request does not jeopardize the safety, health, or treatment of an individual; and

(iii) Assure the exemption request does not impede fair competition of another service agency.

(b) The department approves or denies an exemption request in writing and requires the agency to keep a copy of the decision.

(c) Appeal rights under WAC 246-341-0370 do not apply to exemption to rule decisions.

(4) In the event of an agency closure or the cancellation of a program-specific certification, the agency must provide each individual currently being served:

(a) Notice of the agency closure or program cancellation at least thirty days before the date of closure or program cancellation;

(b) Assistance with relocation; and

(c) Information on how to access records to which the individual is entitled.

(5) If an agency certified to provide any behavioral health service closes, the agency must ensure all individual clinical records are kept and managed for at least six years after the closure before destroying the records in a manner that preserves confidentiality. In addition:

(a) The closing agency must notify the department that the agency will do one of the following:

(i) Continue to retain and manage all individual clinical records; or

(ii) Arrange for the continued storage and management of all individual clinical records.

(b) The closing agency must notify the department in writing and include the name of the licensed agency or entity storing and managing the records, provide the method of contact, such as a telephone number, electronic address, or both, and provide the mailing and street address where the records will be stored.

(c) When a closing agency that has provided substance use disorder services arranges for the continued storage and management of clinical records by another entity, the closing agency must enter into a specific qualified services organization agreement with a department licensed agency or other entity. See 42 C.F.R. Part 2, Subpart B.

(d) When any agency or entity storing and maintaining individual clinical records receives an authorized request for a record, the record must be provided to the requester within a reasonable period of time.

NEW SECTION

WAC 246-341-0305 Agency licensure and certification—Application. To apply for licensure to provide any behavioral health service, an applicant must submit an initial application to the department that is signed by the agency's administrator. The applicant must also apply for and have the department certify any specific behavioral health program services the agency wishes to provide.

(1) The application must include the following:

(a) A copy of the applicant's master business license that authorizes the organization to do business in Washington state;

(b) A list of the specific program services for which the applicant is seeking certification;

(c) A copy of the report of findings from a background check of the administrator and any owner of five percent or more of the organizational assets;

(d) The physical address of any agency operated facility where behavioral health services will be provided;

(e) A statement assuring the applicant meets Americans with Disabilities Act (ADA) standards and that the facility is:

(i) Suitable for the purposes intended;

(ii) Not a personal residence; and

(iii) Approved as meeting all building and safety requirements.

(f) A copy of the policies and procedures specific to the agency;

(g) A copy of a current department residential treatment facility certificate if the applicant is providing substance use disorder residential treatment or mental health residential treatment; and

(h) Payment of associated fees.

(2) The department conducts an on-site review as part of the initial licensing or certification process (see WAC 246-341-0320).

NEW SECTION

WAC 246-341-0310 Agency licensure and certification—Deeming. (1) If an agency is currently accredited by a national accreditation organization that is recognized by and has a current agreement with the department, the department must deem the agency to be in compliance with state standards for licensure and certification.

(2) To be considered for deeming, an agency must submit a request to the department signed by the agency's administrator.

(3) Deeming will be in accordance with the established written agreement between the accrediting agency and the department.

(4) Specific licensing and certification requirements of any:

(a) State rule may only be waived through a deeming process consistent with the established written agreement between the accrediting agency and the department.

(b) State or federal law will not be waived through a deeming process.

(5) An agency operating under a department-issued provisional license or provisional program-specific certification is not eligible for deeming.

(6) An agency:

(a) Must provide to the department a copy of any reports regarding accreditation from the accrediting agency;

(b) Must meet the requirements in WAC 246-341-0325 and 246-341-0345 before adding any additional service(s); and

(c) Is not eligible for deeming until the service(s) has been reviewed by the accrediting agency.

(7) Any branch site added to an existing agency:

(a) Must meet the requirements in WAC 246-341-0340; and

(b) Is not eligible for deeming until the site has been reviewed by the accrediting agency.

NEW SECTION

WAC 246-341-0315 Agency licensure and certification—Renewals. A department issued license and certification of behavioral health services expires twelve months from its effective date. To renew a license or certification, an agency must submit a renewal request signed by the agency's designated official.

(1) The original renewal request must:

(a) Be received by the department before the expiration date of the agency's current license; and

(b) Include payment of the specific renewal fee (see WAC 246-341-0365).

(2) The department may conduct an on-site review as part of the renewal process (see WAC 246-341-0320).

NEW SECTION

WAC 246-341-0320 Agency licensure and certification—On-site reviews and plans of correction. To obtain and maintain a department-issued license and to continue to provide department-certified behavioral health services, each agency is subject to an on-site review to determine if the agency is in compliance with the minimum licensure and certification standards.

(1) A department review team representative(s) conducts an entrance conference with the agency and an on-site review that may include:

(a) A review of:

(i) Agency policies and procedures;

(ii) Personnel records;

(iii) Clinical records;

(iv) Facility accessibility;

(v) The agency's internal quality management plan, process, or both, that demonstrates how the agency evaluates program effectiveness and individual participant satisfaction; and

(vi) Any other information, including the criteria in WAC 246-341-0335 (1)(b), that the department determines to be necessary to confirm compliance with the minimum standards of this chapter; and

(b) Interviews with:

(i) Individuals served by the agency; and

(ii) Agency staff members.

(2) The department review team representative(s) concludes an on-site review with an exit conference that includes a discussion of findings.

(3) The department will send the agency a statement of deficiencies report that will include instructions and time frames for submission of a plan of correction.

(4) The department requires the agency to correct the deficiencies listed on the plan of correction:

(a) By the negotiated time frame agreed upon by the agency and the department review team representative; or

(b) Immediately if the department determines health and safety concerns require immediate corrective action.

NEW SECTION

WAC 246-341-0325 Agency licensure and certification—Approvals and provisional approvals. (1) The department grants an initial or provisional license or program-specific certification to an agency when:

(a) The application and agency policy and procedures submitted meet the requirements of WAC 246-341-0305(1);

(b) An on-site review is conducted under WAC 246-341-0320 and the agency corrects any noted deficiencies within the agreed upon time frame; and

(c) The department determines the agency is in compliance with the licensure and program-specific certification standards.

(2) The agency must post the department-issued license and certification(s) in a conspicuous place on the facility's premises, and, if applicable, on the agency's branch site premises.

(3) See WAC 246-341-0330 for license and program-specific certification effective dates.

(4) See WAC 246-341-0315 for agency requirements for renewing licensure.

NEW SECTION

WAC 246-341-0330 Agency licensure and certification—Effective dates. An agency's license and any behavioral health services certification is effective for up to twelve months from the effective date, subject to the agency maintaining compliance with the minimum license and program-specific certification standards in this chapter.

NEW SECTION

WAC 246-341-0335 Agency licensure and certification—Denials, suspensions, revocations, and penalties. (1) The department will deny issuing or renewing an agency's license or specific program certification(s), place an agency on probation, or suspend, or revoke an agency's license or specific program certification for any of the following reasons:

(a) The agency fails to meet requirements in this chapter.

(b) The agency fails to cooperate or disrupts department representatives during an on-site survey or complaint investigation.

(c) The agency fails to assist the department in conducting individual interviews with either staff members or individuals receiving services, or both.

(d) The agency owner or agency administrator:

(i) Had a license or specific program certification issued by the department subsequently denied, suspended, or revoked;

(ii) Was convicted of child abuse or adjudicated as a perpetrator of a founded child protective services report;

(iii) Was convicted of abuse of a vulnerable adult or adjudicated as a perpetrator of substantiated abuse of a vulnerable adult;

(iv) Obtained or attempted to obtain a health provider license, certification, or registration by fraudulent means or misrepresentation;

(v) Committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180;

(vi) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient or displayed acts of discrimination;

(vii) Misappropriated patient (individual) property or resources;

(viii) Failed to meet financial obligations or contracted service commitments that affect patient care;

(ix) Has a history of noncompliance with state or federal rules in an agency with which the applicant has been affiliated;

(x) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:

(A) The submitted application or materials attached; or

(B) Any matter under department investigation.

(xi) Refused to allow the department access to view records, files, books, or portions of the premises relating to operation of the program;

(xii) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;

(xiii) Is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in transactions involving certain federal funds (this also applies to any person or business entity named in the agency's application for licensure or certification);

(xiv) Does not meet background check requirements;

(xv) Fails to provide satisfactory application materials;

or

(xvi) Advertises the agency as certified when licensing or certification has not been granted, or has been revoked or canceled.

(e) The department determines there is imminent risk to health and safety.

(f) The agency's licensure or specific program certification is in probationary status and the agency fails to correct the noted health and safety deficiencies within the agreed-upon time frames.

(2) The department may deny issuing or renewing an agency's license or specific program certification, place an agency on probation, or suspend or revoke an agency's license or specific program certification for any of the following reasons:

(a) The agency voluntarily cancels licensure or certification.

(b) The agency fails to pay the required license or certification fees.

(c) The agency stops providing the services for which the agency is certified.

(d) The agency fails to notify the department before changing ownership.

(e) The agency fails to notify the department before relocating its licensed location.

(3) The department sends a written notice to deny, suspend, revoke, or modify the licensure or certification status including the reason(s) for the decision and the agency's right to appeal a department decision according to the provisions

of RCW 43.70.115, chapter 34.05 RCW, and chapter 246-10 WAC.

(4) The department may summarily suspend an agency's license or certification of a behavioral health service when an immediate danger to the public health, safety, or welfare requires emergency action.

(5) If an agency fails to comply with the requirements of this chapter, the department may:

(a) Assess fees to cover costs of added licensing and program-specific certification activities, including when the department determines a corrective action is required due to a complaint or incident investigation;

(b) Stop referral(s) of an individual who is a program recipient of either a state or federally funded program or both; and

(c) Notify the authority, the behavioral health organization (BHO) and/or local media of stopped referrals, suspensions, revocations, or nonrenewal of the agency's license or program-specific certification(s).

NEW SECTION

WAC 246-341-0340 Agency licensure and certification—Adding a branch site. To add a branch site, an existing licensed behavioral health agency must notify the department and submit an application that lists the behavioral health services to be provided and that is signed by the agency's designated official.

(1) The agency must also submit the following:

(a) A statement assuring the branch site meets Americans with Disabilities Act (ADA) standards and that the facility is appropriate for providing the proposed services;

(b) A written declaration that a current copy of agency policies and procedures is accessible to the branch site and that the policies and procedures have been revised to accommodate the differences in business and clinical practices at that site; and

(c) Payment of fees (see WAC 246-341-0365).

(2) Each nonresident branch facility is subject to review by the department to determine if the facility is:

(a) Suitable for the purposes intended;

(b) Not a personal residence; and

(c) Approved as meeting all building and safety requirements.

NEW SECTION

WAC 246-341-0342 Agency licensure and certification—Off-site locations. (1) A behavioral health agency that provides outpatient services at an established off-site location(s) must:

(a) Maintain a list of each established off-site location where services are provided; and

(b) Include, for each established off-site location:

(i) The name and address of the location the services are provided;

(ii) The primary purpose of the off-site location;

(iii) The service(s) provided; and

(iv) The date off-site services began at that location.

(2) An agency providing in-home services or services in a public setting must:

(a) Implement and maintain a written protocol of how services will be offered in a manner that promotes individual, staff member, and community safety; and

(b) For the purpose of emergency communication and as required by RCW 71.05.710, provide a wireless telephone or comparable device to any mental health professional who makes home visits to individuals.

(3) An agency must:

(a) Maintain an individual's confidentiality at the off-site location;

(b) Securely transport confidential information and individual records between the licensed agency and the off-site location, if applicable;

(c) Ensure the type of behavioral health service offered at each off-site location is certified by the department; and

(d) Ensure the behavioral health services provided at off-site locations meet the requirements of all applicable local, state, and federal rules and laws.

NEW SECTION

WAC 246-341-0345 Agency licensure and certification—Adding a new service. To add a new behavioral health service, a licensed behavioral health agency must request and submit an abbreviated application that lists the additional behavioral health service(s) it seeks to provide and is signed by the agency's designated official.

(1) The application must include the following:

(a) The name of the administrator providing management or supervision of services;

(b) The physical address or addresses of the agency-operated facility or facilities where the new service(s) will be provided;

(c) A description of the agency's policies and procedures relating to the new service(s);

(d) The name and credentials of each staff member providing the new service(s); and

(e) Payment of fees (see WAC 246-341-0365).

(2) The agency is subject to an on-site review under WAC 246-341-0320 before the department:

(a) Certifies the new behavioral health service(s); and

(b) Issues a new license that lists the added service(s).

NEW SECTION

WAC 246-341-0350 Agency licensure and certification—Change in ownership. (1) When a licensed behavioral health agency changes ownership, the department requires:

(a) A new license application (see WAC 246-341-0305);

(b) Payment of fees (see WAC 246-341-0365); and

(c) A statement regarding the disposition and management of clinical records in accordance with applicable state and federal laws.

(2) The agency must receive a new license under the new ownership before providing any behavioral health service.

NEW SECTION

WAC 246-341-0355 Agency licensure and certification—Change in location. (1) When a licensed behavioral

health agency relocates to another address, the department requires:

- (a) The agency to notify the department in writing of the new address;
 - (b) A new license application (see WAC 246-341-0305); and
 - (c) Payment of fees (see WAC 246-341-0365).
- (2) The agency:
- (a) Is subject to an on-site review under WAC 246-341-0320 when changing locations.
 - (b) Must receive a new license under the new location's address before providing any behavioral health service at that address.

NEW SECTION

WAC 246-341-0360 Agency licensure and certification—Facility remodel. When a licensed behavioral health agency changes the accessibility of the facility by remodeling, the department requires the agency to:

- (1) Notify the department in writing of the facility remodel at least thirty days before the day the remodeling begins; and
- (2) Submit a floor plan documenting accessibility and maintenance of confidentiality during and after the remodel.

NEW SECTION

WAC 246-341-0365 Agency licensure and certification—Fee requirements. (1) Payment of licensing and specific program certification fees required under this chapter must be included with the initial application, renewal application, or with requests for other services.

(2) Payment of fees must be made by check, bank draft, electronic transfer, or money order made payable to the department.

(3) The department may refund one-half of the application fee if an application is withdrawn before certification or denial.

(4) Fees will not be refunded when licensure or certification is denied, revoked, or suspended.

(5) The department charges the following fees for approved substance use disorder treatment programs:

Application fees for agency certification for approved substance use disorder treatment programs	
New agency application	\$1,000
Branch agency application	\$500
Application to add one or more services	\$200
Application to change ownership	\$500

Application fees for agency certification for approved substance use disorder treatment programs	
Initial and annual certification fees for withdrawal management, residential, and nonresidential services	
Withdrawal management and residential services	\$100 per licensed bed, per year, for agencies not renewing certification through deeming
	\$50 per licensed bed, per year, for agencies renewing certification through deeming per WAC 246-341-0310
Nonresidential services	\$750 per year for agencies not renewing certification through deeming
	\$200 per year for agencies certified through deeming per WAC 246-341-0310
Complaint/critical incident investigation fees	
All agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(6) Agency providers must annually complete a declaration form provided by the department to indicate information necessary for establishing fees and updating certification information. Required information includes, but is not limited to:

- (a) The number of licensed withdrawal management and residential beds; and
 - (b) The agency provider's national accreditation status.
- (7) The department charges the following fees for approved mental health treatment programs:

Initial licensing application fee for mental health treatment programs	
Licensing application fee	\$1,000 initial licensing fee
Initial and annual licensing fees for agencies not deemed	
Annual service hours provided:	Initial and annual licensing fees:
0-3,999	\$728
4,000-14,999	\$1,055
15,000-29,999	\$1,405
30,000-49,999	\$2,105
50,000 or more	\$2,575
Annual licensing fees for deemed agencies	
Deemed agencies licensed by the department	\$500 annual licensing fee

Initial licensing application fee for mental health treatment programs	
Complaint/critical incident investigation fee	
All residential and nonresidential agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(8) Agencies providing nonresidential mental health services must report the number of annual service hours provided based on the department's current published "Service Encounter Reporting Instructions for BHOs" and the "Consumer Information System (CIS) Data Dictionary for BHOs."

(a) Existing licensed agencies must compute the annual service hours based on the most recent state fiscal year.

(b) Newly licensed agencies must compute the annual service hours by projecting the service hours for the first twelve months of operation.

(9) Agencies providing inpatient evaluation and treatment services and competency evaluation and restoration treatment services must pay the following certification fees:

- (a) Ninety dollars initial certification fee, per bed; and
- (b) Ninety dollars annual certification fee, per bed.

NEW SECTION

WAC 246-341-0370 Agency licensure and certification—Appealing a department decision. An agency may appeal a decision made by the department regarding agency licensure or certification of a behavioral health service according to WAC 246-341-0335.

SECTION FOUR—BEHAVIORAL HEALTH SERVICES—AGENCY ADMINISTRATION

NEW SECTION

WAC 246-341-0400 Agency administration—Governing body requirements. An agency's governing body is responsible for the conduct and quality of the behavioral health services provided. The agency's governing body must:

- (1) Assure there is an administrator responsible for the day-to-day operation of services;
- (2) Maintain a current job description for the administrator, including the administrator's authority and duties; and
- (3) Notify the department within thirty days of changes of the administrator.

NEW SECTION

WAC 246-341-0410 Agency administration—Administrator key responsibilities. (1) The agency administrator is responsible for the day-to-day operation of the agency's provision of certified behavioral health treatment services, including:

- (a) All administrative matters;
- (b) Individual care services; and

(c) Meeting all applicable rules, policies, and ethical standards.

(2) The administrator must:

(a) Delegate to a staff person the duty and responsibility to act in the administrator's behalf when the administrator is not on duty or on call;

(b) Ensure administrative, personnel, and clinical policies and procedures are adhered to and kept current to be in compliance with the rules in this chapter, as applicable;

(c) Employ sufficient qualified personnel to provide adequate treatment services and facility security;

(d) Ensure all persons providing clinical services are credentialed for their scope of practice as required by the department;

(e) Identify at least one person to be responsible for clinical supervision duties;

(f) Ensure that there is an up-to-date personnel file for each employee, trainee, student, volunteer, and for each contracted staff person who provides or supervises an individual's care; and

(g) Ensure that personnel records document that Washington state patrol background checks consistent with chapter 43.43 RCW have been completed for each employee in contact with individuals receiving services.

(3) The administrator must ensure the agency develops and maintains a written internal quality management plan/process that:

(a) Addresses the clinical supervision and training of clinical staff;

(b) Monitors compliance with the rules in this chapter, and other state and federal rules and laws that govern agency licensing and certification requirements; and

(c) Continuously improves the quality of care in all of the following:

- (i) Cultural competency;
- (ii) Use of evidence based and promising practices; and
- (iii) In response to:
 - (A) Critical incidents;
 - (B) Complaints; and
 - (C) Grievances and appeals.

NEW SECTION

WAC 246-341-0420 Agency administration—Policies and procedures. Each agency licensed by the department to provide any behavioral health service must develop, implement, and maintain administrative policies and procedures to meet the minimum requirements of this chapter. The policies and procedures must demonstrate the following, as applicable:

(1) Ownership. Documentation of the agency's governing body, including a description of membership and authorities, and documentation of the agency's:

(a) Articles and certificate of incorporation and bylaws if the owner is a corporation;

(b) Partnership agreement if the owner is a partnership; or

(c) Sole proprietorship if one person is the owner.

(2) Licensure. A copy of the agency's master business license that authorizes the organization to do business in

Washington state that lists all addresses where the entity performs services.

(3) Organizational description. An organizational description detailing all positions and associated licensure or certification, updated as needed.

(4) Agency staffing and supervision. Documentation that shows the agency has staff members who provide treatment in accordance to regulations relevant to their specialty or specialties and registration, certification, licensing, and trainee or volunteer status.

(5) Interpreter services for individuals with limited-English proficiency (LEP) and individuals who have sensory disabilities. Documentation that demonstrates the agency's ability to provide or coordinate services for individuals with LEP and individuals who have sensory disabilities. This means:

(a) Certified interpreters or other interpreter services must be available for individuals with limited-English-speaking proficiency and individuals who have sensory disabilities; or

(b) The agency must have the ability to effectively provide, coordinate or refer individuals in these populations for appropriate assessment or treatment.

(6) Reasonable access for individuals with disabilities. A description of how reasonable accommodations will be provided to individuals with disabilities.

(7) Nondiscrimination. A description of how the agency complies with all state and federal nondiscrimination laws, rules, and plans.

(8) Fee schedules. A copy of the agency's current fee schedules for all services must be available on request.

(9) Funding options for treatment costs. A description of how the agency works with individuals to address the funding of an individual's treatment costs, including a mechanism to address changes in the individual's ability to pay.

(10) State and federal rules on confidentiality. A description of how the agency implements state and federal rules on individuals' confidentiality consistent with the service or services being provided.

(11) Reporting and documentation of suspected abuse, neglect, or exploitation. A description how the agency directs staff to report and document suspected abuse, neglect, or exploitation of a child or vulnerable adult consistent with chapters 26.44 and 74.34 RCW.

(12) Protection of youth. Documentation of how the agency addresses compliance with program-specific rules and the protection of youth participating in group or residential treatment with adults.

(13) Completing and submitting reports. A description of how the agency directs staff to:

(a) Complete and submit in a timely manner, all reports required by entities such as the courts, department of corrections, department of licensing, the department of social and health services, the health care authority, and the department of health; and

(b) Include a copy of the report(s) in the clinical record and document the date submitted.

(14) Reporting the death of an individual seeking or receiving services. A description of how the agency directs staff to report to the department or behavioral health organi-

zation (BHO), as applicable, within one business day the death of any individual which occurs on the premises of a licensed agency.

(15) Reporting critical incidents. A description of how the agency directs staff to report to the department or BHO, as applicable, within one business day any critical incident that occurs involving an individual, and actions taken as a result of the incident.

(16) A smoking policy. Documentation that a smoking policy consistent with chapter 70.160 RCW (smoking in public places), is in effect.

(17) Outpatient evacuation plan. For a nonresidential agency, an evacuation plan for use in the event of a disaster or emergency that addresses:

(a) Different types of disasters or emergencies;

(b) Placement of posters showing routes of exit;

(c) The need to mention evacuation routes at public meetings;

(d) Communication methods for individuals, staff, and visitors, including persons with a visual or hearing impairment or limitation;

(e) Evacuation of mobility impaired individuals; and

(f) Evacuation of children if child care is offered.

(18) Individual rights. A description of how the agency has individual participation rights and policies consistent with WAC 246-341-0600.

(19) Individual complaints and grievances. A description of how the agency addresses an individual's:

(a) Right to report an alleged violation of chapters 71.05, 71.12, 71.24, 71.34 RCW, and this chapter consistent with WAC 246-341-0605;

(b) Grievance or appeal consistent with WAC 182-538D-0654 through 182-538D-0680.

NEW SECTION

WAC 246-341-0425 Agency administration—Individual clinical record system. Each agency licensed by the department to provide any behavioral health service must:

(1) Maintain a comprehensive clinical record system that includes policies and procedures that protect an individual's personal health information;

(2) Ensure that the individual's personal health information is shared or released only in compliance with applicable state and federal law;

(3) If maintaining electronic individual clinical records:

(a) Provide secure, limited access through means that prevent modification or deletion after initial preparation;

(b) Provide for a backup of records in the event of equipment, media, or human error; and

(c) Provide for protection from unauthorized access, including network and internet access;

(4) Retain an individual's clinical record, including an electronic record, for a minimum of six years after the discharge or transfer of any individual;

(5) Retain a youth's or child's individual clinical record, including an electronic record, for at least six years after the most recent discharge, or at least three years following the youth's or child's eighteenth birthday; and

(6) Meet the access to clinical records requirements in WAC 246-341-0650.

NEW SECTION

WAC 246-341-0430 Agency administration—Treatment facility requirements. Each agency licensed by the department to provide any behavioral health service must ensure that its treatment facility:

- (1) Is not a personal residence;
- (2) Has adequate private space for personal consultation with an individual, staff charting, and therapeutic and social activities, as appropriate;
- (3) Has secure storage of active or closed confidential records; and
- (4) Has separate secure, locked storage of poisonous external chemicals and caustic materials.

SECTION FIVE—BEHAVIORAL HEALTH SERVICES—PERSONNEL

NEW SECTION

WAC 246-341-0500 Personnel—Agency policies and procedures. Each agency licensed by the department to provide any behavioral health service must develop, implement, and maintain personnel policies and procedures. The policies and procedures must meet the minimum requirements of this chapter and include the following, as applicable:

- (1) Background checks. Identification of how the agency conducts Washington state background checks on each agency employee in contact with individuals receiving services, consistent with RCW 43.43.830 through 43.43.842.
- (2) Excluded provider list. A description of how the agency conducts a review of the list of excluded individuals/entities (LEIE) searchable database (found on the Office of Inspector General, U.S. Department of Health and Human Services web site at <http://oig.hhs.gov>) for each employee in contact with individuals receiving services, to include a procedure on how the agency:
 - (a) Reviewed the LEIE database at the time of the employee's hire and annually thereafter; and
 - (b) Assured the employee is not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in transactions involving certain federal funds.
- (3) Drug free workplace. Identification of how the agency provides for a drug free work place that includes:
 - (a) Agency program standards of prohibited conduct; and
 - (b) Actions to be taken in the event a staff member misuses alcohol or other drugs.
- (4) Supervision. Identification of how supervision is provided to assist program staff and volunteers to increase their skills, and improve quality of services to individuals and families.
- (5) Staff training. A description of how the agency provides training within thirty days of an employee's hire date and annually thereafter.

NEW SECTION

WAC 246-341-0510 Personnel—Agency record requirements. Each agency licensed by the department to provide any behavioral health service must maintain a personnel record for each person employed by the agency.

- (1) The personnel record must contain all of the following:
 - (a) Documentation of annual training, including documentation that the employee successfully completed training on cultural competency.
 - (b) A signed and dated commitment to maintain patient (individual) confidentiality in accordance with state and federal confidentiality requirements.
 - (c) A record of an orientation to the agency that includes all of the following:
 - (i) An overview of the agency's policies and procedures.
 - (ii) The duty to warn or to take reasonable precautions to provide protection from violent behavior when an individual has communicated an actual imminent threat of physical violence against a reasonably identifiable victim or victims. Taking reasonable precautions includes notifying law enforcement as required and allowed by law.
 - (iii) Staff ethical standards and conduct, including reporting of unprofessional conduct to appropriate authorities.
 - (iv) The process for resolving client complaints and grievances.
 - (d) A copy of the staff member's valid current credential issued by the department for their scope of practice.
- (2) Staff members who have received services from the agency must have personnel records that:
 - (a) Are separate from clinical records; and
 - (b) Have no indication of current or previous service recipient status.

NEW SECTION

WAC 246-341-0515 Personnel—Agency staff requirements. Each agency licensed by the department to provide one or more behavioral health service must ensure that all of the following staff requirements are met:

- (1) An agency providing mental health services must ensure all of the following:
 - (a) Each mental health service is provided by qualified staff members who meet the following for their scope of practice and services provided:
 - (i) Professional standards, including documented coursework, continuing education, and training;
 - (ii) Clinical supervision requirements; and
 - (iii) Licensure and credentialing requirements.
 - (b) Each staff member working directly with an individual receiving mental health services receives:
 - (i) Clinical supervision from a mental health professional who has received documented training and competency in clinical supervision approved by the department; and
 - (ii) Annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.030.
 - (c) Staff access to consultation with a psychiatrist, physician, physician assistant, advanced registered nurse practitioner (ARNP), or psychologist who has at least one year's

experience in the direct treatment of individuals who have a mental or emotional disorder.

(2) An agency providing substance use disorder treatment services must ensure all of the following:

(a) All substance use disorder assessment and counseling services are provided by a chemical dependency professional (CDP), or a department-credentialed chemical dependency professional trainee (CDPT) under the supervision of an approved supervisor.

(b) There is a designated clinical supervisor who:

(i) Is a CDP;

(ii) Is an approved supervisor who meets the requirements of chapter 246-811 WAC; and

(iii) Has not committed, permitted, aided, or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

(c) Each chemical dependency professional trainee has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

(d) Each staff member that provides individual care has a copy of an initial tuberculosis (TB) screen or test and any subsequent screenings or testing in their personnel file.

(e) All staff members are provided annual training on the prevention and control of communicable disease, bloodborne pathogens, and TB, and document the training in the personnel file.

(3) An agency providing problem and pathological gambling services must ensure all of the following:

(a) All problem and pathological gambling treatment services are provided by:

(i) A certified Washington state, national, or international gambling counselor who is credentialed by the department under chapter 18.19, 18.83, or 18.225 RCW; or

(ii) An individual credentialed by DOH under chapter 18.19, 18.83, or 18.225 RCW, under the supervision of a certified problem gambling counselor, in training to become a certified problem gambling counselor.

(b) Before providing problem and pathological treatment services, an individual in training to become a certified problem gambling counselor must have a minimum of:

(i) At least one thousand five hundred hours of professionally supervised postcertification or postregistration experience providing mental health or substance use disorder treatment services; and

(ii) Thirty hours of unduplicated gambling specific training, including the basic training; one of the following state, national, or international organizations must approve the training:

(A) Washington state gambling counselor certification committee;

(B) National or international gambling counselor certification board; or

(C) The department.

(c) An individual who meets subsection (3)(b)(ii) of this section must complete training to become a certified problem and pathological gambling counselor within two years of beginning problem and pathological gambling clinical practice.

(d) All staff members in training to become a certified problem gambling counselor must receive clinical supervision. The clinical supervisor must:

(i) Hold a valid international gambling counselor certification board-approved clinical consultant credential, a valid Washington state certified gambling counselor II certification credential, or a valid national certified gambling counselor II certification credential; and

(ii) Complete training on gambling specific clinical supervision approved by a state, national, or international organization including, but not limited to, the:

(A) Washington state gambling counselor certification committee;

(B) National or international gambling counselor certification board; or

(C) The department.

NEW SECTION

WAC 246-341-0520 Personnel—Agency requirements for supervision of trainees, interns, volunteers, and students. Each agency licensed by the department to provide any behavioral health service must ensure the following supervision requirements are met for trainees, interns, volunteers, and students:

(1) Each trainee, intern, volunteer, and student passes a background check;

(2) Each trainee, intern, volunteer, and student who receives training at an agency must be assigned a supervisor who has been approved by the agency administrator or designee. The assigned supervisor:

(a) Must be credentialed by the department for their scope of practice;

(b) Is responsible for all individuals assigned to the trainee or intern they supervise; and

(c) Must review clinical documentation with the trainee or intern as part of the supervision process; and

(3) The agency must obtain and retain a confidentiality statement signed by the trainee, intern, volunteer, and student and the person's academic supervisor, if applicable.

SECTION SIX—BEHAVIORAL HEALTH SERVICES—CLINICAL

NEW SECTION

WAC 246-341-0600 Clinical—Individual rights. (1) Each agency licensed by the department to provide any behavioral health service must develop a statement of individual participant rights applicable to the service categories the agency is licensed for, to ensure an individual's rights are protected in compliance with chapters 71.05, 71.12, and 71.34 RCW. In addition, the agency must develop a general statement of individual participant rights that incorporates at a minimum the following statements. "You have the right to:"

(a) Receive services without regard to race, creed, national origin, religion, gender, sexual orientation, age or disability;

(b) Practice the religion of choice as long as the practice does not infringe on the rights and treatment of others or the

treatment service. Individual participants have the right to refuse participation in any religious practice;

(c) Be reasonably accommodated in case of sensory or physical disability, limited ability to communicate, limited-English proficiency, and cultural differences;

(d) Be treated with respect, dignity and privacy, except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises;

(e) Be free of any sexual harassment;

(f) Be free of exploitation, including physical and financial exploitation;

(g) Have all clinical and personal information treated in accord with state and federal confidentiality regulations;

(h) Review your clinical record in the presence of the administrator or designee and be given an opportunity to request amendments or corrections;

(i) Receive a copy of agency grievance system procedures according to WAC 182-538D-0654 through 182-538D-0680 upon request and to file a grievance with the agency, or behavioral health organization (BHO), if applicable, if you believe your rights have been violated; and

(j) Submit a report to the department when you feel the agency has violated a WAC requirement regulating behavioral health agencies.

(2) Each agency must ensure the applicable individual participant rights described in subsection (1) of this section are:

(a) Provided in writing to each individual on or before admission;

(b) Available in alternative formats for individuals who are visually impaired;

(c) Translated to the most commonly used languages in the agency's service area;

(d) Posted in public areas; and

(e) Available to any participant upon request.

(3) Each agency must ensure all research concerning an individual whose cost of care is publicly funded is done in accordance with chapter 388-04 WAC, protection of human research subjects, and other applicable state and federal rules and laws.

(4) In addition to the requirements in this section, each agency providing services to medicaid recipients must ensure an individual seeking or participating in behavioral health treatment services, or the person legally responsible for the individual is informed of their medicaid rights at time of admission and in a manner that is understandable to the individual or legally responsible person.

(5) The grievance system rules in WAC 182-538D-0654 through 182-538D-0680 apply to an individual who receives behavioral health services funded through a federal medicaid program or sources other than a federal medicaid program.

NEW SECTION

WAC 246-341-0605 Complaint process. (1) Any person may submit a report to the department of an alleged violation of licensing and certification laws and rules.

(2) Health care professionals credentialed by the department must comply with the mandatory reporting requirements in chapters 18.130 RCW and 246-16 WAC.

(3) If the department determines a report should be investigated, the report becomes a complaint. If the department conducts a complaint investigation, agency representatives must cooperate to allow department representatives to:

(a) Examine any part of the facility at reasonable times and as needed;

(b) Review and evaluate agency records including, but not limited to:

(i) An individual's clinical record and personnel file; and

(ii) The agency's policies, procedures, fiscal records, and any other documents required by the department to determine compliance and to resolve the complaint; and

(c) Conduct individual interviews with staff members and individuals receiving services.

(4) An agency or agency provider must not retaliate against any:

(a) Individual or individual's representative for making a report with the department or being interviewed by the department about a complaint;

(b) A witness involved in the complaint issue; or

(c) An employee of the agency.

(5) The department may assess a fee under RCW 43.70.250, or deny, suspend, or modify a license or certification under RCW 43.70.115, if:

(a) Any allegation within the complaint is substantiated; or

(b) The department's finding that the individual or individual's representative, a witness, or employee of the agency experienced an act of retaliation by the agency as described in subsection (4) of this section during or after a complaint investigation.

NEW SECTION

WAC 246-341-0610 Clinical—Assessment. Each agency licensed by the department to provide any behavioral health service is responsible for an individual's assessment.

(1) The assessment must be:

(a) Conducted in person; and

(b) Completed by a professional appropriately credentialed or qualified to provide one or more of the following services as determined by state and federal law: Substance use disorder, mental health, and problem and pathological gambling.

(2) The assessment must document that the clinician conducted an age-appropriate, strengths-based psychosocial assessment that considered current needs and the patient's relevant history according to best practices. Such information may include, if applicable:

(a) Identifying information;

(b) Presenting issues;

(c) Medical provider's name or medical providers' names;

(d) Medical concerns;

(e) Medications currently taken;

(f) Mental health history;

(g) Substance use history, including tobacco;

(h) Problem and pathological gambling history;

(i) An assessment of any risk of harm to self and others, including suicide, homicide, and a history of self-harm;

(j) A referral for provision of emergency/crisis services must be made if indicated in the risk assessment;

(k) Legal history, including information that a person is or is not court-ordered to treatment or under the supervision of the department of corrections;

(l) Employment and housing status;

(m) Treatment recommendations or recommendations for additional program-specific assessment; and

(n) A diagnostic assessment statement, including sufficient data to determine a diagnosis supported by the current and applicable Diagnostic and Statistical Manual of Mental Disorders (DSM-5).

(3) Agencies providing substance use disorder services must ensure the assessment includes:

(a) A statement regarding the provision of an HIV/AIDS brief risk intervention, and any referral made; and

(b) A placement decision, using ASAM criteria dimensions when the assessment indicates the individual is in need of substance use disorder services.

(4) Behavioral health agencies can apply for an exemption from the assessment requirements in this section if the agency is following similar documentation requirements of an evidence-based, research-based, or state-mandated program that provides adequate protection for patient safety. See WAC 246-341-0300 for information about the exemption process.

NEW SECTION

WAC 246-341-0620 Clinical—Individual service plan. Each agency licensed by the department to provide any behavioral health service is responsible for an individual's service plan as follows:

(1) The individual service plan must:

(a) Be completed or approved by a professional appropriately credentialed or qualified to provide one or more of the following services:

(i) Mental health;

(ii) Substance use disorder; and

(iii) Problem and pathological gambling services.

(b) Address issues identified by the individual or, if applicable, the individual's parent(s) or legal representative;

(c) Be in a terminology that is understandable to the individual and the individual's family;

(d) Document that the plan was mutually agreed upon and a copy was made available to the individual;

(e) Contain measurable goals or objectives, or both, and interventions; and

(f) Be updated to address applicable changes in identified needs and achievement of goals.

(2) An agency that provides any behavioral health service must ensure the individual service plan:

(a) Is initiated during the first individual session following the assessment with at least one goal identified by the individual or if applicable, the individual's parent or legal representative; and

(b) Documents that the plan was reviewed and updated to reflect any changes in the individual's treatment needs, or as requested by the individual or, if applicable, the individual's parent or legal representative.

(3) If the individual service plan includes assignment of work to an individual, the assignment must have therapeutic value and meet all the requirements in subsection (1) of this section.

(4) Behavioral health agencies may apply for an exemption from the individual service plan requirements in this section if the agency is following similar documentation requirements of an evidence-based, research-based, or state-mandated program that provides adequate protection for patient safety. See WAC 246-341-0300 for information about the exemption process.

(5) Behavioral health agencies providing substance use disorder services must review the individual service plan to determine the need for continued services using ASAM criteria.

NEW SECTION

WAC 246-341-0640 Clinical—Additional record content. Each agency licensed by the department to provide any behavioral health service is responsible for an individual's clinical record content. The clinical record must include:

(1) Documentation the individual received a copy of counselor disclosure requirements as required for the counselor's credential;

(2) Demographic information;

(3) An assessment;

(4) Documentation of the individual's response when asked if:

(a) The individual is under department of corrections (DOC) supervision;

(b) The individual is under civil or criminal court ordered mental health or substance use disorder treatment; and

(c) There is a court order exempting the individual participant from reporting requirements. A copy of the court order must be included in the record if the participant claims exemption from reporting requirements.

(5) Documentation that the agency is in compliance with RCW 71.05.445 regarding mental health services for individuals under department of corrections supervision;

(6) Documentation the individual was informed of applicable federal and state confidentiality requirements;

(7) Documentation of confidential information that has been released without the consent of the individual under:

(a) RCW 70.02.050;

(b) The Health Insurance Portability and Accountability Act (HIPAA); and

(c) RCW 70.02.230 and 70.02.240 if the individual received mental health treatment services.

(8) Documentation that any mandatory reporting of abuse, neglect, or exploitation consistent with chapters 26.44 and 74.34 RCW has occurred;

(9) If treatment is not court-ordered, documentation of informed consent to treatment by the individual or individual's parent, or other legal representative;

(10) If treatment is court-ordered, a copy of the order;

(11) Medication records, if applicable;

(12) Laboratory reports, if applicable;

(13) Properly completed authorizations for release of information, if applicable;

(14) Copies of applicable correspondence;

(15) Discharge information as follows:

(a) A discharge statement if the individual left without notice;

(b) Discharge information for an individual who did not leave without notice, completed within seven working days of the individual's discharge, including:

(i) The date of discharge;

(ii) Continuing care plan;

(iii) Legal status, and if applicable; and

(iv) Current prescribed medication.

(c) When an individual is transferring to another service provider, documentation that copies of documents pertinent to the individual's course of treatment were forwarded to the new service provider with the individual's permission.

(16) A copy of any report required by entities such as the courts, department of corrections, department of licensing, and the department of health, and the date the report was submitted;

(17) Progress notes must include the date, time, duration, participant's name, response to interventions, and a brief summary of the session and the name and credential of the staff member who provided it;

(18) Documentation of coordination with any systems or organizations the individual identifies as being relevant to treatment, with the individual's consent or if applicable, the consent of the individual's parent or legal representation; and

(19) A crisis plan, if one has been developed.

NEW SECTION

WAC 246-341-0650 Clinical—Access to clinical records. Each agency licensed by the department to provide any behavioral health service must:

(1) Provide access to an individual's clinical record at the request of the individual or, if applicable, the individual's designated representative, or legal representative, or both. The agency must:

(a) Ensure that any material confidential to another person, agency, or provider is not redisclosed.

(b) Make the clinical record available to the requester within fifteen days of the request.

(c) Allow appropriate time and privacy for the review.

(d) Have a clinical staff member available to answer questions.

(e) Assure the charge for duplicating or searching the record is at a rate not higher than the "reasonable fee" as defined in RCW 70.02.010.

(2) Make an individual's clinical record available to department staff as required for department program review.

(3) If the agency maintains electronic individual clinical records, the agency must:

(a) Make the clinical record available, in paper form if requested; and

(b) Meet the criteria in subsections (1) and (2) of this section.

(4) When an individual receiving mental health services is under the supervision of the department of corrections

(DOC), make information available to DOC, in accordance with RCW 71.05.445. The information released does not require the consent of the individual.

SECTION SEVEN—OUTPATIENT SERVICES

NEW SECTION

WAC 246-341-0700 Outpatient services—General.

Outpatient behavioral health services are intended to improve or reduce symptoms and help facilitate resolution of situational disturbances for individuals in the areas of relationships, employment, and community integration.

(1) Outpatient services include the following:

(a) Individual mental health treatment services;

(b) Brief mental health intervention treatment services;

(c) Group mental health therapy services;

(d) Family therapy mental health services;

(e) Rehabilitative case management mental health services;

(f) Psychiatric medication mental health services and medication support;

(g) Day support mental health services;

(h) Mental health outpatient services provided in a residential treatment facility (RTF);

(i) Recovery support services including:

(i) Supported employment mental health and substance use disorder services;

(ii) Supportive housing mental health and substance use disorder services;

(iii) Peer support mental health services;

(iv) Wraparound facilitation mental health services;

(v) Applied behavior analysis (ABA) mental health services; and

(vi) Consumer-run clubhouse mental health services.

(j) Level one outpatient substance use disorder services;

(k) Level two intensive outpatient substance use disorder services;

(l) Substance use disorder assessment only services;

(m) Alcohol and drug information school;

(n) Substance use disorder information and crisis services;

(o) Substance use disorder emergency service patrol services;

(p) Substance use disorder screening and brief intervention services; and

(q) Problem and pathological gambling services.

(2) A behavioral health agency that provides outpatient services must:

(a) Be licensed by the department as a behavioral health agency; and

(b) Meet the applicable program-specific requirements for each outpatient behavioral health services provided.

NEW SECTION

WAC 246-341-0702 Outpatient services—Individual mental health treatment services.

(1) Individual mental health treatment services are services designed to assist an individual in attaining the goals identified in the individual service plan. The treatment services are conducted with the

individual and any natural supports as identified by the individual.

(2) An agency certified to provide individual treatment services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.

NEW SECTION

WAC 246-341-0704 Outpatient services—Brief mental health intervention treatment services. (1) Brief mental health intervention treatment services are solution-focused and outcome-oriented cognitive and behavioral interventions, intended to resolve situational disturbances. These services do not require long-term treatment, are generally completed in six months or less, and do not include ongoing care, maintenance, or monitoring of the individual's current level of function or assistance with self-care or life skills training.

(2) An agency certified to provide brief mental health intervention treatment services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.

NEW SECTION

WAC 246-341-0706 Outpatient services—Group mental health therapy services. Group mental health therapy services are provided to an individual in a group setting to assist the individual in attaining the goals described in the individual service plan. In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650, an agency certified to provide group mental health services must:

- (1) Have a written description of each group's purpose;
- (2) Ensure group therapy services are provided with a staff ratio of one staff member for every sixteen individuals;
- (3) Ensure any group containing more than twelve individuals has at least one facilitator or cofacilitator that is an appropriately credentialed professional; and
- (4) Ensure group notes are recorded in each individual's clinical record and include the requirements of WAC 246-341-0640(15) for discharge information.

NEW SECTION

WAC 246-341-0708 Outpatient services—Family therapy mental health services. (1) Family therapy mental health services are services provided for the direct benefit of an individual, with either family members, or other relevant persons, or both, in attendance, with the consent of the individual.

(2) Interventions must identify and build competencies to strengthen family functioning in relationship to the individual's identified goals. The individual may or may not be present.

(3) An agency certified to provide family therapy mental health services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.

NEW SECTION

WAC 246-341-0710 Outpatient services—Rehabilitative case management mental health services. Rehabilitative case management mental health services are services that meet the ongoing assessment, facilitation, care coordination and advocacy for options and services to meet an individual's needs through communication and available resources, to promote quality and effective outcomes during and following a hospitalization.

(1) Rehabilitative case management services support individual employment, education, and participation in other daily activities appropriate to the individual's age, gender, and culture, and assist individuals in resolving crises in the least restrictive setting.

(2) Rehabilitative case management services include specific rehabilitative services provided to:

- (a) Assist in an individual's discharge from an inpatient facility; and
- (b) Minimize the risk of readmission to an inpatient setting.

(3) An agency certified to provide rehabilitative case management services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.

NEW SECTION

WAC 246-341-0712 Outpatient services—Psychiatric medication mental health services and medication support. Psychiatric medication mental health services are a variety of activities related to prescribing and administering medication, including monitoring an individual for side effects and changes as needed. These services may only be provided with one of the outpatient mental health services in WAC 246-341-0700 (1)(a) through (e). An agency providing psychiatric medication services may also provide medication support services, described in subsections (2) and (3) of this section.

(1) An agency providing psychiatric medication services must:

- (a) Ensure that medical direction and responsibility are assigned to a:
 - (i) Physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or board-eligible in psychiatry;

(ii) Psychiatric advanced registered nurse practitioner (ARNP); or

(iii) Physician assistant working with a supervising psychiatrist.

(b) Ensure that the services are provided by a prescriber licensed by the department who is practicing within the scope of that practice;

(c) Ensure that all medications are administered by staff practicing within the scope of their practice;

(d) Have a process by which the medication prescriber informs either the individual, the legally responsible party, or both, and, as appropriate, family members, of the potential benefits and side effects of the prescribed medication(s);

(e) Must ensure that all medications maintained by the agency are safely and securely stored, including assurance that:

(i) Medications are kept in locked cabinets within a well-lit, locked and properly ventilated room;

(ii) Medications kept for individuals on medication administration or self-administration programs are clearly labeled and stored separately from medication samples kept on-site;

(iii) Medications marked "for external use only" are stored separately from oral or injectable medications;

(iv) Refrigerated food or beverages used in the administration of medications are kept separate from the refrigerated medications by the use of trays or other designated containers;

(v) Syringes and sharp objects are properly stored and disposed of;

(vi) Refrigerated medications are maintained at the required temperature; and

(vii) Outdated medications are disposed of in accordance with the regulations of the state board of pharmacy and no outdated medications are retained.

(2) An agency providing psychiatric medication services may utilize a physician or ARNP without board eligibility in psychiatry if unable to employ or contract with a psychiatrist. In this case, the agency must ensure that:

(a) Psychiatrist consultation is provided to the physician or ARNP at least monthly; and

(b) A psychiatrist is accessible to the physician or ARNP for emergency consultation.

(3) Medication support services occur face-to-face and:

(a) Include one-on-one cueing, observing, and encouraging an individual to take medication as prescribed;

(b) Include reporting any pertinent information related to the individual's adherence to the medication back to the agency that is providing psychiatric medication services; and

(c) May take place at any location and for as long as it is clinically necessary.

(4) An agency providing medication support services must:

(a) Ensure that the staff positions responsible for providing either medication monitoring, or delivery services, or both, are clearly identified in the agency's medication support services policy;

(b) Have appropriate policies and procedures in place when the agency providing medication support services maintains or delivers medication to the individual that address:

(i) The maintenance of a medication log documenting medications that are received, prescribed, and dispensed;

(ii) Reasonable precautions that need to be taken when transporting medications to the intended individual and to assure staff safety during the transportation; and

(iii) The prevention of contamination of medication during delivery, if delivery is provided.

(c) Ensure that the individual's clinical record contains the individual service plan, including documentation of medication support services.

NEW SECTION

WAC 246-341-0714 Outpatient services—Day support mental health services. (1) Day support mental health services provide a range of integrated and varied life skills training. Day support services are designed to assist an individual in the acquisition of skills, retention of current functioning, or improvement in the current level of functioning, appropriate socialization, and adaptive coping skills.

(2) Services include training in basic living and social skills, and educational, vocational, prevocational, and day activities. Day support services may include therapeutic treatment.

(3) An agency certified to provide day support services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.

NEW SECTION

WAC 246-341-0716 Outpatient services—Mental health outpatient services provided in a residential treatment facility (RTF). A residential treatment facility (RTF) may provide outpatient mental health treatment services to an individual with a mental disorder. An agency that operates an RTF that provides mental health treatment services must:

(1) Ensure that the facility is licensed by the department under chapter 246-337 WAC; and

(2) Be certified for and provide the following:

(a) Rehabilitative case management services (see WAC 246-341-0710);

(b) Less restrictive alternative (LRA) support services (see WAC 246-341-0805) if serving individuals on an LRA court order or conditional release; and

(c) Psychiatric medication services and medication support services (see WAC 246-341-0712).

NEW SECTION

WAC 246-341-0718 Outpatient services—Recovery support—General. Recovery support services are intended to promote an individual's socialization, recovery, self-advocacy, development of natural support, and maintenance of community living skills.

(1) Recovery support services include:

(a) Supported employment services;

(b) Supportive housing services;

(c) Peer support services;

(d) Wraparound facilitation services;

(e) Applied behavior analysis (ABA) services; and

(f) Consumer-run clubhouse services.

(2) An agency that provides any recovery support service may operate through an agreement with a licensed behavioral health agency that provides certified outpatient behavioral health services listed in WAC 246-341-0700. The agreement must specify the responsibility for initial assessments, the determination of appropriate services, individual service planning, and the documentation of these requirements. Subsections (3) through (5) of this section list the abbreviated requirements for assessments, staff, and clinical records.

(3) When providing any recovery support service, a behavioral health agency must:

(a) Have an assessment process to determine the appropriateness of the agency's services, based on the individual's needs and goals;

(b) Refer an individual to a more intensive level of care when appropriate; and

(c) With the consent of the individual, include the individual's family members, significant others, and other relevant treatment providers as necessary to provide support to the individual.

(4) An agency providing recovery support services must ensure:

(a) Each staff member working directly with an individual receiving any recovery support service has annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.030; and

(b) The staff member's personnel record documents the training.

(5) An agency providing any recovery support service must maintain an individual's clinical record that contains:

(a) Documentation of the following:

(i) The name of the agency or other sources through which the individual was referred;

(ii) A brief summary of each service encounter, including the date, time, and duration of the encounter; and

(iii) Names of participant(s), including the name of the individual who provided the service.

(b) Any information or copies of documents shared by, or with, a behavioral health agency certified for outpatient mental health services.

NEW SECTION

WAC 246-341-0720 Outpatient services—Recovery support—Supported employment mental health and substance use disorder services. Supported employment mental health and substance use disorder services assist in job search, placement services, and training to help individuals find competitive jobs in their local communities.

(1) An agency that provides certified supported employment services must meet the general requirements for recovery support services in WAC 246-341-0718.

(2) A behavioral health agency that provides supported employment services must have knowledge of and provide individuals access to employment and education opportunities by coordinating efforts with one or more entities that provide other rehabilitation and employment services, such as:

(a) The department of social and health services' division of vocational rehabilitation (DVR), which provides supported employment under WAC 388-891-0840 by community rehabilitation program contract as described in WAC 388-892-0100;

(b) The department of social and health services' community services offices;

(c) Community, trade, and technical colleges;

(d) The business community;

(e) WorkSource, Washington state's official site for online employment services;

(f) Washington state department of employment security; and

(g) Organizations that provide job placement within the community.

(3) A behavioral health agency that provides supported employment services must:

(a) Ensure all staff members who provide direct services for employment are knowledgeable and familiar with services provided by the department's division of vocational rehabilitation;

(b) Conduct and document a vocational assessment in partnership with the individual that includes work history, skills, training, education, and personal career goals;

(c) Assist the individual to create an individualized job and career development plan that focuses on the individual's strengths and skills;

(d) Assist the individual to locate employment opportunities that are consistent with the individual's skills, goals, and interests;

(e) Provide and document any outreach, job coaching, and support at the individual's worksite when requested by the individual or the individual's employer; and

(f) If the employer makes a request, provide information regarding the requirements of reasonable accommodations, consistent with the Americans with Disabilities Act (ADA) of 1990 and Washington state antidiscrimination law.

NEW SECTION

WAC 246-341-0722 Outpatient services—Recovery support—Supportive housing mental health and substance use disorder services. Supportive housing mental health and substance use disorder services support an individual's transition to community integrated housing and support the individual to be a successful tenant in a housing arrangement.

(1) An agency that provides certified supportive housing services must meet the general requirements for recovery support services in WAC 246-341-0718.

(2) A behavioral health agency that provides supportive housing services must have knowledge of and provide housing related collaborative activities to assist individuals in identifying, coordinating, and securing housing or housing resources with entities such as:

(a) Local homeless continuum of care groups or local homeless planning groups;

(b) Housing authorities that operate in a county or city in the behavioral health organization's (BHO) regional service area;

(c) Community action councils that operate in a county or region in the BHO's regional service area;

(d) Landlords of privately owned residential homes; and

(e) State agencies that provide housing resources.

(3) A behavioral health agency that provides supportive housing services must:

(a) Ensure all staff members who provide direct services for supportive housing are knowledgeable and familiar with fair housing laws;

(b) Conduct and document a housing assessment in partnership with the individual that includes housing preferences, affordability, and barriers to housing;

(c) Conduct and document a functional needs assessment in partnership with the individual that includes independent living skills and personal community integration goals;

(d) Assist the individual to create an individualized housing acquisition and maintenance plan that focuses on the individual's choice in housing;

(e) Assist the individual to locate housing opportunities that are consistent with the individual's preferences, goals, and interests;

(f) Provide any outreach, tenancy support, and independent living skill building supports at a location convenient to the individual;

(g) Provide the individual with information regarding the requirements of the Fair Housing Act, Americans with Disabilities Act (ADA) of 1990, and Washington state antidiscrimination law, and post this information in a public place in the agency; and

(h) Ensure the services are specific to each individual and meant to assist in obtaining and maintaining housing in scattered-site, clustered, integrated, or single-site housing as long as the individual holds a lease or sublease.

NEW SECTION

WAC 246-341-0724 Outpatient services—Recovery support—Peer support mental health services. (1) Peer support mental health services provide a wide range of activities to assist an individual in exercising control over their own life and recovery process through:

(a) Developing self-advocacy and natural supports;

(b) Maintenance of community living skills;

(c) Promoting socialization; and

(d) The practice of peer counselors sharing their own life experiences related to mental illness to build alliances that enhance the individual's ability to function.

(2) An agency that provides certified peer support services must meet the general requirements for recovery support services in WAC 246-341-0718.

(3) An agency providing peer support services must ensure peer support counselors:

(a) Are recognized by the authority as a "peer counselor" as defined in WAC 182-538D-0200; and

(b) Provide peer support services:

(i) Under the supervision of a mental health professional; and

(ii) Within the scope of the peer counselor's training and department of health credential.

(4) An agency providing peer support services must document the frequency, duration, and expected outcome of all peer support services in the individual service plan.

NEW SECTION

WAC 246-341-0726 Outpatient services—Recovery support—Wraparound facilitation mental health services. Wraparound facilitation mental health services address the complex emotional, behavior, and social issues of an

identified individual twenty years of age or younger, and the individual's family.

(1) Wraparound facilitation services are:

(a) Provided to an individual who requires the services of a mental health provider and one or more child serving systems;

(b) Focused and driven by the needs of the identified family and the family's support community; and

(c) Provided in partnership with the individual, the individual's family, and the individual's mental health provider.

(2) In addition to meeting the general requirements for recovery support services in WAC 246-341-0718, an agency providing certified wraparound facilitation services must employ or contract with:

(a) A mental health professional (MHP) who is responsible for oversight of the wraparound facilitation services;

(b) A facilitator who has completed department-approved wraparound facilitation training and:

(i) Has a master's degree with at least one year of experience working in social services;

(ii) Has a bachelor's degree with at least two years of experience working in social services; or

(iii) Is an individual with lived experience that is documented in the personnel file.

(c) A staff member certified to provide a child and adolescent needs and strengths (CANS) assessment.

(3) In addition to the staff requirements in subsection (2) of this subsection, an agency must ensure the following individuals are available to assist in the planning and provision of wraparound facilitation services, as needed:

(a) An employee or volunteer youth partner, actively involved in defining the agency's services; and

(b) An employee or volunteer family partner, actively involved in defining the agency's services.

(4) All wraparound facilitation services:

(a) Must include the identified individual, the individual's family, and the individual's mental health provider; and

(b) May include additional support partners as team members including, but not limited to, all of the following:

(i) Natural supports. Natural supports include community members, friends, and extended family members identified by either the individual, the individual's family, or both, to be active participants in the individual's support network.

(ii) System supports. System supports are representatives from systems that currently offer support to the identified individual or that offer support services to the individual's adult care giver, which directly affects the individual.

(iii) Peer supports. Peer supports are individuals who have personally and actively participated in wraparound facilitation services and who offer support to families currently working with the wraparound teams.

(5) An agency must document the following:

(a) The development of a wraparound plan that:

(i) Includes:

(A) A complete list of participants and their contact information;

(B) A list of next steps or follow-up information from the initial meeting; and

(C) The schedule of child and family team (CFT) meetings.

- (ii) Describes the individual's and the individual's family's vision for the future stated in their own language;
 - (iii) Reflects the family's prioritization of needs and goals and addresses the needs as identified in the CANS screen;
 - (iv) Is integrated with the person's individual service plan (see WAC 246-341-0620);
 - (v) Identifies the functional strengths of the individual and the individual's family that can be used to help meet the identified needs;
 - (vi) Assigns responsibility to CFT members for each strategy/intervention or task, and establishes timelines for implementation;
 - (vii) Identifies immediate safety needs and a safety/crisis plan;
 - (viii) Assists the individual and the individual's family in using their support network; and
 - (ix) Is signed by all CFT members, including the individual and the individual's parent or if applicable, legal guardian.
- (b) Coordination with any other involved systems and services or supports, including sharing the wraparound plan and any revisions with all members of the team;
 - (c) The result of the initial and subsequent CANS screenings and assessments; and
 - (d) The review of the wraparound plan during each CFT meeting and any revisions made to the plan to address the changing needs and progress of the identified individual and the individual's family.

NEW SECTION

WAC 246-341-0728 Outpatient services—Recovery support—Applied behavior analysis mental health services. Applied behavior analysis (ABA) mental health services assist children and their families to improve the core symptoms associated with autism spectrum disorders or other developmental disabilities for which ABA services have been determined to be medically necessary.

- (1) ABA services support learning, skill development, and assistance in any one or more of the following areas or domains:
 - (a) Social;
 - (b) Behavior;
 - (c) Adaptive;
 - (d) Motor;
 - (e) Vocational; or
 - (f) Cognitive.
- (2) An agency providing ABA services must meet the:
 - (a) General requirements in WAC 246-341-0718 for recovery support services;
 - (b) Specific agency staff requirements in WAC 246-341-0718(4); and
 - (c) Specific clinical record content and documentation requirements in WAC 246-341-0640 and 246-341-0718(5).
- (3) The health care authority (HCA) administers chapter 182-531A WAC for ABA services requirements. The rules in chapter 182-531A WAC include:
 - (a) Definitions that apply to ABA services;
 - (b) Program and clinical eligibility requirements;
 - (c) Prior authorization and recertification requirements;

- (d) Specific ABA provider requirements;
- (e) Covered and noncovered services;
- (f) Billing requirements; and
- (g) Requirements for:
 - (i) Referrals to and assessments by centers of excellence (COE) for evaluations and orders; and
 - (ii) ABA assessments and individualized ABA therapy treatment plans.
- (4) The ABA therapy treatment plan must:
 - (a) Be developed and maintained by a lead behavior analysis therapist (LBAT) (see subsection (5) of this section);
 - (b) Identify the services to be delivered by the LBAT and the therapy assistant, if the agency employs a therapy assistant (see subsections (6) and (7) of this section);
 - (c) Be comprehensive and document treatment being provided by other health care professionals; and
 - (d) Document how all treatment will be coordinated, as applicable, with other members of the health care team.
- (5) An agency certified to provide ABA services must employ a lead behavior analysis therapist (LBAT).
 - (a) To qualify as an LBAT, an individual must meet the professional requirements in chapter 182-531 WAC.
 - (b) The agency must ensure the LBAT meets other applicable requirements in chapter 182-531A WAC.
- (6) An agency may choose to employ a therapy assistant.
 - (a) To qualify as a therapy assistant, an individual must meet the professional requirements in chapter 182-531A WAC.
 - (b) The agency must ensure the therapy assistant meets other applicable requirements in chapter 182-531A WAC.
- (7) If the agency employs a therapy assistant(s), the agency must ensure the LBAT:
 - (a) Supervises the therapy assistant:
 - (i) For a minimum of five percent of the total direct care provided by the therapy assistant per week (for example, one hour of direct supervision per twenty hours of direct care); and
 - (ii) In accordance with agency policies and procedures;
 - (b) Meets the requirements in this section;
 - (c) Completes a review of an individual's ABA therapy treatment plan with the therapy assistant before services are provided;
 - (d) Assures the therapy assistant delivers services according to the individual's ABA therapy treatment plan; and
 - (e) Meets at least every two weeks with the therapy assistant and documents review of the individual's progress or response to the treatment, or both, and makes changes to the ABA therapy treatment plan as indicated by the individual's progress or response.
- (8) To maintain department program-specific certification to provide ABA services, an agency must continue to ensure the requirements in this section are met.

NEW SECTION

WAC 246-341-0730 Outpatient services—Consumer-run recovery support—Clubhouses—Required clubhouse components. (1) The department certifies consumer-run clubhouses under the provision of RCW 71.24.-

035. International center for clubhouse development certification is not a substitute for certification by the state of Washington.

(2) Required clubhouse components include all of the following:

(a) Voluntary member participation. Clubhouse members choose the way they use the clubhouse and the staff with whom they work. There are no agreements, contracts, schedules, or rules intended to enforce participation of members. All member participation is voluntary. Clubhouse policy and procedures must describe how members will have the opportunity to participate, based on their preferences, in the clubhouse.

(b) The work-ordered day.

(c) Activities, including:

(i) Personal advocacy;

(ii) Help with securing entitlements;

(iii) Information on safe, appropriate, and affordable housing;

(iv) Information related to accessing medical, psychological, pharmacological and substance use disorder services in the community;

(v) Outreach to members during periods of absence from the clubhouse and maintaining contact during periods of inpatient treatment;

(vi) In-house educational programs that use the teaching and tutoring skills of members;

(vii) Connecting members with adult education opportunities in the community;

(viii) An active employment program that assists members to gain and maintain employment in full- or part-time competitive jobs in integrated settings developed in partnership with the member, the clubhouse, and the employer and time-limited, part-time community jobs managed by the clubhouse with absentee coverage provided; and

(ix) An array of social and recreational opportunities.

(d) Operating at least thirty hours per week on a schedule that accommodates the needs of the members.

NEW SECTION

WAC 246-341-0732 Outpatient services—Consumer-run recovery support—Clubhouses—Management and operational requirements. The requirements for managing and operating a clubhouse include all of the following:

(1) Members, staff, and ultimately the clubhouse director, are responsible for the operation of the clubhouse. The director must ensure opportunities for members and staff to be included in all aspects of clubhouse operation, including setting the direction of the clubhouse.

(2) Location in an area, when possible, where there is access to local transportation and, when access to public transportation is limited, facilitate alternatives.

(3) A distinct identity, including its own name, mailing address, and phone number.

(4) A separate entrance and appropriate signage that make the clubhouse clearly distinct, when colocated with another community agency.

(5) An independent board of directors capable of fulfilling the responsibilities of a not-for-profit board of directors, when free-standing.

(6) An administrative structure with sufficient authority to protect the autonomy and integrity of the clubhouse, when under the auspice of another agency.

(7) Services are timely, appropriate, accessible, and sensitive to all members.

(8) Members are not discriminated against on the basis of any status or individual characteristic that is protected by federal, state, or local law.

(9) Written proof of a current fire/safety inspection:

(a) Conducted of all premises owned, leased or rented by the clubhouse; and

(b) Performed by all required external authorities (such as a state fire marshal and liability insurance carrier).

(10) All applicable state, county, and city business licenses.

(11) All required and current general liability, board and officers liability, and vehicle insurance.

(12) An identifiable clubhouse budget that includes:

(a) Tracking all income and expenditures for the clubhouse by revenue source;

(b) Quarterly reconciliation of accounts; and

(c) Compliance with all generally accepted accounting principles.

(13) Track member participation and daily attendance.

(14) Assist member in developing, documenting, and maintaining the member's recovery goals and providing monthly documentation of progress toward reaching them. Both member and staff must sign all such plans and documentation, or, if a member does not sign, staff must document the reason.

(15) A mechanism to identify and implement needed changes to the clubhouse operations, performance, and administration, and to document the involvement of members in all aspects of the operation of the clubhouse.

(16) Evaluate staff performance by:

(a) Ensuring that paid employees:

(i) Are qualified for the position they hold, including any licenses or certifications; and

(ii) Have the education, experience and skills to perform the job requirements.

(b) Maintaining documentation that paid clubhouse staff:

(i) Have a completed Washington state patrol background check on file; and

(ii) Receive regular supervision and an annual performance evaluation.

NEW SECTION

WAC 246-341-0734 Outpatient services—Consumer-run recovery support—Clubhouses—Certification process. The department grants certification based on compliance with the minimum standards in WAC 246-341-0730 through 246-341-0736.

(1) To be certified to provide clubhouse services, an organization must comply with all of the following:

(a) Meet all requirements for applicable city, county and state licenses and inspections.

(b) Complete and submit an application for certification to the department.

(c) Successfully complete an on-site certification review by the department to determine compliance with the minimum clubhouse standards, as set forth in this chapter.

(d) Initial applicants that can show that they have all organizational structures and written policies in place, but lack the performance history to demonstrate that they meet minimum standards, may be granted initial certification for up to one year. Successful completion of an on-site certification review is required prior to the expiration of initial certification.

(2) Upon certification, clubhouses will undergo periodic on-site certification reviews.

(a) The frequency of certification reviews is determined by the on-site review score as follows:

(i) A compliance score of ninety percent or above results in the next certification review occurring in three years;

(ii) A compliance score of eighty percent to eighty-nine percent results in the next certification review occurring in two years;

(iii) A compliance score of seventy percent to seventy-nine percent results in the next certification review occurring in one year; or

(iv) A compliance score below seventy percent results in a probationary certification.

(b) Any facet of an on-site review resulting in a compliance score below ninety percent requires a plan of correction approved by the department.

(3) Probationary certification may be issued by the department if:

(a) A clubhouse fails to conform to applicable law, rules, regulations, or state minimum standards; or

(b) There is imminent risk to the individual's health and safety.

(4) The department may suspend or revoke a clubhouse's certification, or refuse to grant or renew a clubhouse's certification if a clubhouse fails to correct deficiencies as mutually agreed to in the plan of correction with the department.

(5) A clubhouse may appeal a certification decision by the department.

(a) To appeal a decision, the clubhouse must follow the procedure outlined in WAC 246-341-0370 and include the name, signature, and address of the clubhouse director.

(b) The hearing decision will be made according to the provisions of chapters 34.05 RCW and 246-10 WAC.

NEW SECTION

WAC 246-341-0736 Outpatient services—Consumer-run recovery support—Clubhouses—Employment-related services. The following employment support activities must be offered to clubhouse members:

(1) Collaboration on creating, revising, and meeting individualized job and career goals;

(2) Information about how employment will affect income and benefits;

(3) Information on other rehabilitation and employment services including, but not limited to:

(a) The division of vocational rehabilitation;

(b) The state employment services;

(c) The business community;

(d) Job placement services within the community; and

(e) Community mental health agency-sponsored supported employment services.

(4) Assistance in locating employment opportunities that are consistent with the member's skills, goals, and interests;

(5) Assistance in developing a resume, conducting a job search, and interviewing;

(6) Assistance in:

(a) Applying for school and financial aid; and

(b) Tutoring and completing course work.

(7) Information regarding protections against employment discrimination provided by federal, state, and local laws and regulations, and assistance with asserting these rights, including securing professional advocacy.

NEW SECTION

WAC 246-341-0738 Outpatient services—Level one outpatient substance use disorder services. (1) ASAM level one outpatient substance use disorder services provide a program of individual and group counseling, education, and activities, in accordance with ASAM criteria.

(2) An agency certified to provide level one outpatient substance use disorder services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.

(3) An agency certified to provide level one outpatient substance use disorder services must ensure both of the following:

(a) Group therapy services are provided with a staff ratio of one staff member for every sixteen individuals; and

(b) A group counseling session with twelve to sixteen youths includes a second staff member.

NEW SECTION

WAC 246-341-0740 Outpatient services—Level two intensive outpatient substance use disorder services. ASAM level two intensive outpatient substance use disorder services provide a concentrated program of individual and group counseling, education, and activities, in accordance with ASAM criteria.

(1) An agency certified to provide level two intensive outpatient treatment services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650.

(2) An agency providing level two intensive outpatient treatment services for deferred prosecution must:

(a) Ensure that individuals admitted under a deferred prosecution order receive services that meet the requirements of RCW 10.05.150, including, that the individual receives a minimum of seventy-two hours of treatment services within a maximum of twelve weeks, which consist of the following during the first four weeks of treatment:

(i) At least three sessions each week, with each session occurring on separate days of the week;

(ii) Group sessions that must last at least one hour; and

(iii) Attendance at self-help groups in addition to the seventy-two hours of treatment services.

(b) There must be approval, in writing, by the court having jurisdiction in the case, when there is any exception to the requirements in this subsection; and

(c) The agency must refer for ongoing treatment or support upon completion of intensive outpatient treatment, as necessary.

(3) An agency certified to provide level two intensive outpatient substance use disorder services must ensure both of the following:

(a) Group therapy services are provided with a staff ratio of one staff member for every sixteen individuals; and

(b) A group counseling session with twelve to sixteen youths includes a second staff member.

NEW SECTION

WAC 246-341-0742 Outpatient services—Substance use disorder assessment only services. Substance use disorder assessment only services are provided to an individual to determine the individual's involvement with alcohol and other drugs and determine the appropriate course of care or referral.

(1) A behavioral health agency certified for assessment only services may choose to become certified to also provide driving under the influence (DUI) assessment services described in WAC 246-341-0820.

(2) An agency certified to provide assessment only services must meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 except where specifically indicated.

(3) An agency providing assessment only services:

(a) Must review, evaluate, and document information provided by the individual;

(b) May include information from external sources such as family, support individuals, legal entities, courts, and employers; and

(c) Is not required to meet the individual service plan requirements in WAC 246-341-0620.

(4) An agency must maintain and provide a list of resources, including self-help groups, and referral options that can be used by staff members to refer an individual to appropriate services.

(5) An agency that offers off-site assessment services must meet the requirements in WAC 246-341-0342.

(6) An agency providing assessment only services must ensure all assessment only services are provided by a chemical dependency professional (CDP).

NEW SECTION

WAC 246-341-0744 Outpatient services—Information and assistance services—Substance use disorder services—General. Information and assistance services are considered nontreatment substance use disorder services provided to support an individual who has a need for interventions related to substance use.

(1) Information and assistance services require additional program-specific certification by the department and include:

(a) Alcohol and drug information school;

(b) Information and crisis services;

(c) Emergency service patrol; and

(d) Screening and brief intervention.

(2) Substance use disorder information and assistance services are available without an initial assessment or individual service plan and are not required to meet the requirements under WAC 246-341-0640.

(3) An agency providing information and assistance services must maintain and provide a list of resources, including self-help groups and referral options, that can be used by staff members to refer an individual to appropriate services.

NEW SECTION

WAC 246-341-0746 Outpatient services—Substance use disorder information and assistance services—Alcohol and drug information school. Alcohol and drug information school services provide an educational program about substance use. These services are for an individual referred by a court or other jurisdiction(s) who may have been assessed and determined not to require treatment. In addition to meeting requirements for substance use disorder information and assistance services in WAC 246-341-0744, an agency providing alcohol and drug information school services must:

(1) Ensure courses are taught by a certified information school instructor or a chemical dependency professional (CDP) who:

(a) Advises each student there is no assumption the student has a substance use disorder and that the course is not a therapy session;

(b) Follows a department-approved curriculum;

(c) Ensures each course has no fewer than eight hours of classroom instruction; and

(d) Administers each enrolled student the post-test for each course after the course is completed;

(2) Ensure a school instructor who is not a CDP has a certificate of completion of an alcohol and other drug information school instructor's training course approved by the department, and the personnel file contains documentation of the training; and

(3) Ensure each individual student record contains:

(a) An intake form, including demographics;

(b) The hours of attendance, including dates; and

(c) A copy of the scored post-test.

NEW SECTION

WAC 246-341-0748 Outpatient services—Substance use disorder information and assistance—Information and crisis services. Substance use disorder information and crisis services provide an individual assistance or guidance related to substance use disorders, twenty-four hours a day by telephone or in person. In addition to meeting requirements for substance use disorder information and assistance services in WAC 246-341-0744, an agency providing information and crisis services must:

- (1) Have services available to any individual twenty-four hours a day, seven days a week;
- (2) Ensure each staff member completes forty hours of training that covers substance use disorders before assigning the staff member unsupervised duties;
- (3) Ensure a chemical dependency professional (CDP), or a chemical dependency professional trainee (CDPT) under supervision of a CDP, is available or on staff twenty-four hours a day;
- (4) Maintain a current directory of all certified substance use disorder service providers in the state; and
- (5) Maintain a current list of local resources for legal, employment, education, interpreter, and social and health services.

NEW SECTION

WAC 246-341-0750 Outpatient services—Substance use disorder information and assistance—Emergency service patrol. Emergency service patrol services provide transport assistance to an intoxicated individual in a public place when a request has been received from police, merchants, or other persons. In addition to meeting requirements for substance use disorder information and assistance services in WAC 246-341-0744, an agency providing emergency service patrol services must:

- (1) Ensure the staff member providing the service:
 - (a) Has proof of a valid Washington state driver's license;
 - (b) Possesses annually updated verification of first-aid and cardiopulmonary resuscitation training; and
 - (c) Has completed forty hours of training in substance use disorder crisis intervention techniques and alcoholism and drug abuse, to improve skills in handling crisis situations.
- (2) Respond to calls from police, merchants, and other persons for assistance with an intoxicated individual in a public place;
- (3) Patrol assigned areas and give assistance to an individual intoxicated in a public place;
- (4) Conduct a preliminary screening of an individual's condition related to the state of their impairment and presence of a physical condition needing medical attention;
- (5) Transport the individual to their home or shelter, to a certified treatment provider, or a health care facility if the individual is intoxicated, but subdued and willing to be transported;
- (6) Make reasonable efforts to take the individual into protective custody and transport the individual to an appropriate treatment or health care facility, when the individual is incapacitated, unconscious, or has threatened or inflicted harm on another person;
- (7) Call law enforcement for assistance if the individual is unwilling to be taken into protective custody; and
- (8) Maintain a log, including:
 - (a) The date, time and origin of each call received for assistance;
 - (b) The time of arrival at the scene;
 - (c) The location of the individual at the time of the assist;
 - (d) The name and sex of the individual transported;
 - (e) The results of the preliminary screening;

- (f) The destination and address of the transport and time of arrival; and
- (g) In case of nonpickup of a person, documentation of why the pickup did not occur.

NEW SECTION

WAC 246-341-0752 Outpatient services—Substance use disorder information and assistance—Screening and brief intervention. Screening and brief intervention services are a combination of information and assistance services designed to screen an individual for risk factors that appear to be related to substance use disorders, provide interventions, and make appropriate referral as needed. These services may be provided in a wide variety of settings. In addition to meeting requirements for substance use disorder information and assistance services in WAC 246-341-0744, an agency providing screening and brief intervention services must:

- (1) Ensure services are provided by a chemical dependency professional (CDP), a chemical dependency professional trainee (CDPT) under the supervision of a CDP, or another appropriately credentialed staff member;
- (2) Ensure each staff member completes forty hours of training that covers the following areas before assigning the staff member unsupervised duties:
 - (a) Substance use disorder screening and brief intervention techniques;
 - (b) Motivational interviewing; and
 - (c) Referral.
- (3) Maintain a current list of local resources for legal, employment, education, interpreter, and social and health services; and
- (4) Ensure each individual's record contains:
 - (a) A copy of a referral;
 - (b) Demographic information;
 - (c) Documentation the individual was informed and received a copy of the requirements under 42 C.F.R. Part 2;
 - (d) Documentation the individual received a copy of the counselor disclosure information;
 - (e) Documentation the individual received a copy of the individual rights;
 - (f) Authorization for the release of information; and
 - (g) A copy of screening documents, including outcome and referrals.

NEW SECTION

WAC 246-341-0754 Outpatient services—Problem and pathological gambling treatment services. Problem and pathological gambling treatment services provide treatment to an individual that includes diagnostic screening and assessment, and individual, group, couples, and family counseling and case management. In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 an agency that provides problem and pathological gambling treatment services must:

- (1) Have an outline of each education session included in the service that is sufficient in detail for another trained staff person to deliver the session in the absence of the regular instructor;

(2) Maintain a list or source of resources, including self-help groups, and referral options that can be used by staff to refer an individual to appropriate services;

(3) Limit the size of group counseling sessions to no more than sixteen individuals; and

(4) Maintain a written procedure for the response to medical and psychiatric emergencies.

SECTION EIGHT—INVOLUNTARY AND COURT-ORDERED OUTPATIENT TREATMENT

NEW SECTION

WAC 246-341-0800 Involuntary and court-ordered—Noncompliance reporting for court-ordered substance use disorder treatment. An agency providing substance use disorder services must report noncompliance, in all levels of care, for an individual ordered into substance use disorder treatment by a court of law or other appropriate jurisdictions. An agency that fails to report noncompliance for an individual under chapter 46.61 RCW is subject to penalties as stated in RCW 46.61.5056(4). An agency providing treatment to a court-mandated individual, including deferred prosecution, must develop procedures addressing individual noncompliance and reporting requirements, including:

(1) Completing an authorization to release confidential information form that meets the requirements of 42 C.F.R. Part 2 and 45 C.F.R. Parts 160 and 164 or through a court order authorizing the disclosure pursuant to 42 C.F.R. Part 2, Sections 2.63 through 2.67;

(2) Notifying the designated crisis responder within three working days from obtaining information of any violation of the terms of the court order for purposes of revocation of the individual's conditional release, or department of corrections (DOC) if the individual is under DOC supervision;

(3) Reporting and recommending action for emergency noncompliance to the court or other appropriate jurisdiction(s) within three working days from obtaining information on:

(a) An individual's failure to maintain abstinence from alcohol and other nonprescribed drugs as verified by individual's self-report, identified third-party report confirmed by the agency, or blood alcohol content or other laboratory test;

(b) An individual's report of subsequent alcohol or drug related arrests; or

(c) An individual leaving the program against program advice or an individual discharged for rule violation;

(4) Reporting and recommending action for nonemergency, noncompliance to the court or other appropriate jurisdiction(s) within ten working days from the end of each reporting period, upon obtaining information on:

(a) An individual's unexcused absences or failure to report, including failure to attend mandatory self-help groups; or

(b) An individual's failure to make acceptable progress in any part of the treatment plan.

(5) Transmitting noncompliance or other significant changes as soon as possible, but no longer than ten working days from the date of the noncompliance, when the court does not wish to receive monthly reports;

(6) Reporting compliance status of persons convicted under chapter 46.61 RCW to the department of licensing.

NEW SECTION

WAC 246-341-0805 Involuntary and court-ordered—Less restrictive alternative (LRA) or conditional release support behavioral health services. Less restrictive alternative (LRA) support and conditional release behavioral health services are provided to individuals on a less restrictive alternative court order or conditional release. An agency agrees to provide or monitor the provision of court-ordered services, including psychiatric, substance use disorder treatment, and medical components of community support services. In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650, an agency providing court-ordered LRA support and conditional release services must do all of the following:

(1) Have a written policy and procedure that allows for the referral of an individual to an involuntary treatment facility twenty-four hours a day, seven days a week.

(2) Have a written policy and procedure for an individual who requires involuntary detention that includes procedures for:

(a) Contacting the designated crisis responder (DCR) regarding revocations or extension of an LRA or conditional release; and

(b) The transportation of an individual, in a safe and timely manner, for the purpose of:

(i) Evaluation; or

(ii) Evaluation and detention.

(3) Ensure a committed individual is advised of their rights under chapter 71.05 or 71.34 RCW, as applicable, and that the individual has the right:

(a) To receive adequate care and individualized treatment;

(b) To make an informed decision regarding the use of antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the individual has the right to attend;

(c) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation and treatment for a mental health disorder or substance use disorder;

(d) Of access to attorneys, courts, and other legal redress;

(e) To be told statements the individual makes may be used in the involuntary proceedings; and

(f) To have all information and records compiled, obtained, or maintained in the course of treatment kept confidential as described in chapters 70.02, 71.05, and 71.34 RCW.

(4) Include in the clinical record a copy of the less restrictive alternative court order or conditional release and a copy of any subsequent modification.

(5) Ensure the development and implementation of an individual service plan which addresses the conditions of the less restrictive alternative court order or conditional release and a plan for transition to voluntary treatment.

(6) Ensure that the individual receives psychiatric medication services or medication assisted treatment for the assessment and prescription of psychotropic medications or substance use disorder treatment medications, appropriate to the needs of the individual as follows:

(a) At least one time in the initial fourteen days following release from inpatient treatment for an individual on a ninety-day or one hundred eighty-day less restrictive alternative court order or conditional release, unless the individual's attending physician, physician assistant, or psychiatric advanced registered nurse practitioner (ARNP) determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record; and

(b) At least one time every thirty days for the duration of the less restrictive alternative court order or conditional release, unless the individual's attending physician or psychiatric ARNP determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record.

(7) Keep a record of the periodic evaluation by a mental health professional for a mental health disorder or a chemical dependency professional for substance use disorder treatment, of each committed individual for release from, or continuation of, an involuntary treatment order. Evaluations must occur at least every thirty days for the duration of the commitments and include documentation of assessment and rationale:

(a) For requesting a petition for an additional period of less restrictive or conditional release treatment under an involuntary treatment order; or

(b) Allowing the less restrictive court order or conditional release expire without an extension request.

NEW SECTION

WAC 246-341-0810 Involuntary and court-ordered—Emergency individual detention mental health and substance use disorder services. Emergency involuntary detention services are services provided by a designated crisis responder (DCR) to evaluate an individual in crisis and determine if involuntary services are required. In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650, an agency certified to provide emergency involuntary detention services must do all of the following:

(1) Ensure that services are provided by a DCR.

(2) Ensure staff members are available twenty-four hours a day, seven days a week.

(3) Ensure staff members utilize the protocols for DCRs required by RCW 71.05.214.

(4) Have a written agreement with a certified inpatient evaluation and treatment or secure withdrawal management and stabilization facility to allow admission of an individual twenty-four hours a day, seven days a week.

(5) Have a plan for training, staff back-up, information sharing, and communication for a staff member who responds to a crisis in a private home or a nonpublic setting.

(6) Ensure that a DCR is able to be accompanied by a second trained individual when responding to a crisis in a private home or a nonpublic setting.

(7) Ensure that a DCR who engages in a home visit to a private home or a nonpublic setting is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication as described in RCW 71.05.710.

(8) Provide staff members, who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(9) Have a written protocol for the transportation of an individual, in a safe and timely manner, for the purpose of medical evaluation or detention.

(10) Document services provided to the individual, and other applicable information. At a minimum this must include:

(a) That the individual was advised of their rights in accordance with RCW 71.05.360;

(b) That if the evaluation was conducted in a hospital emergency department or inpatient unit, it occurred in accordance with the timelines required by RCW 71.05.050, 71.05.153, and 71.34.710;

(c) That the DCR conducting the evaluation considered both of the following when evaluating the individual:

(i) The imminent likelihood of serious harm or imminent danger because of being gravely disabled (see RCW 71.05.153); and

(ii) The likelihood of serious harm or grave disability that does not meet the imminent standard for the emergency detention (see RCW 71.05.150).

(d) That the DCR documented consultation with any examining emergency room physician as required by RCW 71.05.154;

(e) If the individual was not detained:

(i) A description of the disposition and follow-up plan; and

(ii) Documentation that the minor's parent was informed of their right to request a court review of the DCR's decision not to detain the minor under RCW 71.34.710, if the individual is a minor thirteen years of age or older.

(f) If the individual was detained, a petition for initial detention must include the following:

(i) The circumstances under which the person's condition was made known;

(ii) Evidence, as a result of the DCR's personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that the individual is gravely disabled;

(iii) Evidence that the individual will not voluntarily seek appropriate treatment;

(iv) Consideration of all reasonably available information from credible witnesses, to include family members, landlords, neighbors, or others with significant contact and history of involvement with the individual, and records, as required by RCW 71.05.212; and

(v) Consideration of the individual's history of judicially required, or administratively ordered, anti-psychotic medications while in confinement when conducting an evaluation of an offender under RCW 72.09.370.

(g) Documentation that the individual, or the individual's guardian or conservator, received a copy of the following:

- (i) Notice of detention;
- (ii) Notice of rights; and
- (iii) Initial petition.

NEW SECTION

WAC 246-341-0815 Involuntary and court-ordered—Substance use disorder counseling for RCW 46.61-5056. In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650, an agency providing certified substance use disorder counseling services to an individual convicted of driving under the influence or physical control under RCW 46.61.5056 must ensure treatment is completed as follows:

(1) Treatment during the first sixty days must include:

(a) Weekly group or individual substance use disorder counseling sessions according to the individual service plan;

(b) One individual substance use disorder counseling session of not less than thirty minutes duration, excluding the time taken for a substance use disorder assessment, for each individual, according to the individual service plan;

(c) Alcohol and drug basic education for each individual;

(d) Participation in self-help groups for an individual with a diagnosis of substance use disorder. Participation must be documented in the individual's clinical record; and

(e) The balance of the sixty-day time period for individuals who complete intensive inpatient substance use disorder treatment services must include, at a minimum, weekly outpatient counseling sessions according to the individual service plan.

(2) The next one hundred twenty days of treatment includes:

(a) Group or individual substance use disorder counseling sessions every two weeks according to the individual service plan;

(b) One individual substance use disorder counseling session of not less than thirty minutes duration, every sixty days according to the individual service plan; and

(c) Referral of each individual for ongoing treatment or support, as necessary, using ASAM criteria, upon completion of one hundred eighty days of treatment.

(3) For an individual who is assessed with insufficient evidence of a substance use disorder, a substance use disorder professional (CDP) must refer the individual to alcohol/drug information school.

NEW SECTION

WAC 246-341-0820 Involuntary and court-ordered—Driving under the influence (DUI) substance use disorder assessment services. Driving under the influence (DUI) assessment services, as defined in chapter 46.61 RCW, are provided to an individual to determine the individual's

involvement with alcohol and other drugs and determine the appropriate course of care or referral.

(1) In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650, an agency certified to provide DUI assessment services:

(a) Must review, evaluate, and document information provided by the individual;

(b) May include information from external sources such as family, support individuals, legal entities, courts, and employers;

(c) Is not required to meet the individual service plan requirements in WAC 246-341-0620; and

(d) Must maintain and provide a list of resources, including self-help groups, and referral options that can be used by staff members to refer an individual to appropriate services.

(2) An agency certified to provide DUI assessment services must also ensure:

(a) The assessment is conducted in person; and

(b) The individual has a summary included in the assessment that evaluates the individual's:

(i) Blood or breath alcohol level and other drug levels, or documentation of the individual's refusal at the time of the arrest, if available; and

(ii) Self-reported driving record and the abstract of the individual's legal driving record.

(3) When the assessment findings do not result in a substance use disorder diagnosis, the assessment must also include:

(a) A copy of the police report;

(b) A copy of the court originated criminal case history;

(c) The results of a urinalysis or drug testing obtained at the time of the assessment; and

(d) A referral to alcohol and drug information school.

(4) If the information in subsection (3)(a) through (d) of this section is required and not readily available, the record must contain documentation of attempts to obtain the information.

(5) Upon completion of the DUI assessment, the individual must be:

(a) Informed of the results of the assessment; and

(b) Referred to the appropriate level of care according to ASAM criteria.

SECTION NINE—CRISIS OUTPATIENT MENTAL HEALTH SERVICES

NEW SECTION

WAC 246-341-0900 Crisis mental health services—General. Crisis mental health services are intended to stabilize an individual in crisis to prevent further deterioration, provide immediate treatment and intervention in a location best suited to meet the needs of the individual, and provide treatment services in the least restrictive environment available. An agency certified to provide crisis mental health services must meet the general requirements in WAC 246-341-0300 through 246-341-0650 except the initial assessment,

individual service plan, and clinical record requirements in WAC 246-341-0610, 246-341-0620, and 246-341-0640.

(1) Crisis services include:

- (a) Crisis telephone support;
- (b) Crisis outreach services;
- (c) Crisis stabilization services;
- (d) Crisis peer support services; and
- (e) Emergency involuntary detention services.

(2) An agency providing any crisis mental health service must ensure:

(a) All crisis services are provided by, or under the supervision of, a mental health professional;

(b) Each staff member working directly with an individual receiving any crisis mental health service receives:

(i) Clinical supervision from a mental health professional; and

(ii) Annual violence prevention training on the safety and violence prevention topics described in RCW 49.19.030. The staff member's personnel record must document the training.

(c) Staff access to consultation with one of the following professionals who has at least one year's experience in the direct treatment of individuals who have a mental or emotional disorder:

- (i) A psychiatrist;
- (ii) A physician;
- (iii) A physician assistant; or

(iv) An advanced registered nurse practitioner (ARNP) who has prescriptive authority.

(3) Subsection (2)(c) of this section does not apply to agencies that only provide crisis telephone services.

(4) Documentation of a crisis service must include the following, as applicable to the crisis service provided:

(a) A brief summary of each crisis service encounter, including the date, time, and duration of the encounter;

(b) The names of the participants; and

(c) A follow-up plan, including any referrals for services, including emergency medical services.

(5) An agency must ensure crisis services:

(a) Are, with the exception of stabilization services, available twenty-four hours a day, seven days a week;

(b) Include family members, significant others, and other relevant treatment providers, as necessary, to provide support to the individual in crisis;

(c) Are provided in a setting that provides for the safety of the individual and agency staff members; and

(d) Require that trained staff remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or referral to another service is accomplished.

NEW SECTION

WAC 246-341-0905 Crisis mental health services—Telephone support services. Mental health telephone support services are services provided as a means of first contact to an individual in crisis. These services may include deescalation and referral.

(1) In addition to meeting the general requirements for crisis services in WAC 246-341-0900, an agency certified to provide telephone support services must:

(a) Respond to crisis calls twenty-four-hours-a-day, seven-days-a week;

(b) Have a written protocol for the referral of an individual to a voluntary or involuntary treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis, including arrangements for contacting the designated crisis responder;

(c) Assure communication and coordination with the individual's mental health care provider, if indicated and appropriate; and

(d) Post a copy of the statement of individual rights in a location visible to staff and agency volunteers.

(2) An agency must document each telephone crisis response contact made, including:

(a) The date, time, and duration of the telephone call;

(b) The relationship of the caller to the person in crisis, for example self, family member, or friend;

(c) Whether the individual in crisis has a crisis plan; and

(d) The outcome of the call, including:

(i) Any follow-up contacts made;

(ii) Any referrals made, including referrals to emergency or other medical services; and

(iii) The name of the staff person who took the crisis call.

NEW SECTION

WAC 246-341-0910 Crisis mental health services—Outreach services. Crisis mental health outreach services are face-to-face intervention services provided to assist individuals in a community setting. A community setting can be an individual's home, an emergency room, a nursing facility, or other private or public location. In addition to meeting the general requirements for crisis services in WAC 246-341-0900, an agency certified to provide crisis outreach services must do all of the following:

(1) Provide crisis telephone screening.

(2) Ensure face-to-face outreach services are provided by a mental health professional, or a mental health care provider under the supervision of a mental health professional with documented training in crisis response.

(3) Ensure services are provided in a setting that provides for the safety of the individual and agency staff members.

(4) Have a protocol for requesting a copy of an individual's crisis plan twenty-four hours a day, seven days a week.

(5) Require that staff member(s) remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or a referral to another service is accomplished.

(6) Resolve the crisis in the least restrictive manner possible.

(7) Have a written plan for training, staff back-up, information sharing, and communication for staff members who respond to a crisis in an individual's private home or in a non-public setting.

(8) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when

services are provided in the individual's home or other non-public location.

(9) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device for the purpose of emergency communication as described in RCW 71.05.710.

(10) Provide staff members who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(11) Have a written protocol that allows for the referral of an individual to a voluntary or involuntary treatment facility twenty-four hours a day, seven days a week.

(12) Have a written protocol for the transportation of an individual in a safe and timely manner, when necessary.

(13) Document all crisis response contacts, including:

(a) The date, time, and location of the initial contact;

(b) The source of referral or identity of caller;

(c) The nature of the crisis;

(d) Whether the individual has a crisis plan and any attempts to obtain a copy;

(e) The time elapsed from the initial contact to the face-to-face response;

(f) The outcome, including:

(i) The basis for a decision not to respond in person;

(ii) Any follow-up contacts made; and

(iii) Any referrals made, including referrals to emergency medical services.

(g) The name of the staff person(s) who responded to the crisis.

NEW SECTION

WAC 246-341-0915 Crisis mental health services—Stabilization services. Crisis mental health stabilization services include short-term (less than two weeks per episode) face-to-face assistance with life skills training and understanding of medication effects on an individual. Stabilization services may be provided to an individual as a follow-up to crisis services provided or to any individual determined by a mental health professional to need additional stabilization services. In addition to meeting the general requirements for crisis services in WAC 246-341-0900, an agency certified to provide crisis stabilization services must:

(1) Ensure the services are provided by a mental health professional, or under the supervision of a mental health professional;

(2) Ensure the services are provided in a setting that provides for the safety of the individual and agency staff;

(3) Have a written plan for training, staff back-up, information sharing, and communication for staff members who are providing stabilization services in an individual's private home or in a nonpublic setting;

(4) Have a protocol for requesting a copy of an individual's crisis plan;

(5) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when

services are provided in the individual's home or other non-public location;

(6) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication as described in RCW 71.05.710;

(7) Have a written protocol that allows for the referral of an individual to a voluntary or involuntary treatment facility;

(8) Have a written protocol for the transportation of an individual in a safe and timely manner, when necessary; and

(9) Document all crisis stabilization response contacts, including identification of the staff person(s) who responded.

NEW SECTION

WAC 246-341-0920 Crisis mental health services—Peer support services. Crisis mental health peer support services assist an individual in exercising control over their own life and recovery process through the practice of peer counselors sharing their own life experiences related to mental illness to build alliances that enhance the individual's ability to function.

(1) Peer support services are intended to augment and not supplant other necessary mental health services.

(2) In addition to meeting the general requirements for crisis services in WAC 246-341-0900, an agency certified to provide crisis peer support services must:

(a) Ensure services are provided by a person recognized by the authority as a peer counselor, as defined in WAC 246-341-0200, under the supervision of a mental health professional;

(b) Ensure services provided by a peer counselor are within the scope of the peer counselor's training and credential;

(c) Ensure that a peer counselor responding to a crisis is accompanied by a mental health professional;

(d) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication; and

(e) Ensure peer counselors receive annual training that is relevant to their unique working environment.

SECTION TEN—OPIOID TREATMENT PROGRAMS (OTP)

NEW SECTION

WAC 246-341-1000 Opioid treatment programs (OTP)—General. (1) Opioid treatment program services include the dispensing of an opioid treatment medication, along with a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects incident to opioid use disorder. These services include withdrawal management treatment and maintenance treatment.

(2) An agency must meet all the certification requirements in WAC 246-341-1005 in order to provide opioid treatment program services and:

(a) Be licensed by the department as a behavioral health agency;

(b) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650; and

(c) Have policies and procedures to support and implement the:

(i) General requirements in WAC 246-341-0420; and

(ii) Program-specific requirements in WAC 246-341-1000 through 246-341-1025.

(3) An agency providing opioid treatment program services must ensure that the agency's individual record system complies with all federal and state reporting requirements relevant to opioid drugs approved for use in treatment of opioid use disorder.

(4) An agency must:

(a) Use ASAM criteria for admission, continued services, and discharge planning and decisions;

(b) Provide education to each individual admitted, totaling no more than fifty percent of treatment services, on:

(i) Alcohol, other drugs, and substance use disorder;

(ii) Relapse prevention;

(iii) Bloodborne pathogens; and

(iv) Tuberculosis (TB);

(c) Provide education or information to each individual on:

(i) Emotional, physical, and sexual abuse;

(ii) Nicotine use disorder;

(iii) The impact of substance use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of substance use during pregnancy; and

(iv) Family planning.

(d) Have written procedures for:

(i) Diversion control that contains specific measures to reduce the possibility of the diversion of controlled substances from legitimate treatment use, and assign specific responsibility to the medical and administrative staff members for carrying out the described diversion control measures and functions;

(ii) Urinalysis and drug testing, to include obtaining:

(A) Specimen samples from each individual, at least eight times within twelve consecutive months;

(B) Random samples, without notice to the individual;

(C) Samples in a therapeutic manner that minimizes falsification;

(D) Observed samples, when clinically appropriate; and

(E) Samples handled through proper chain of custody techniques.

(iii) Laboratory testing;

(iv) The response to medical and psychiatric emergencies; and

(v) Verifying the identity of an individual receiving treatment services, including maintaining a file in the dispensary with a photograph of the individual and updating the photographs when the individual's physical appearance changes significantly.

(5) An agency must ensure that an individual is not admitted to opioid treatment withdrawal management ser-

vices more than two times in a twelve-month period following admission to services.

(6) An agency providing services to a pregnant woman must have a written procedure to address specific issues regarding their pregnancy and prenatal care needs, and to provide referral information to applicable resources.

(7) An agency providing youth opioid treatment program services must:

(a) Have a written procedure to assess and refer the youth to the department of children, youth, and families, when applicable;

(b) Ensure that a group counseling session with twelve to sixteen youths include a second staff member;

(c) Ensure that before admission the youth has had two documented attempts at short-term withdrawal management or drug-free treatment within a twelve-month period, with a waiting period of no less than seven days between the first and second short-term withdrawal management treatment; and

(d) Ensure that when a youth is admitted for maintenance treatment, written consent by a parent or if applicable, legal guardian or responsible adult designated by the relevant state authority, is obtained.

(8) An agency providing opioid treatment program services must ensure:

(a) That notification to the federal Substance Abuse and Mental Health Services Administration (SAMHSA) and the department is made within three weeks of any replacement or other change in the status of the program, program sponsor (as defined in 42 C.F.R. Part 8), or medical director;

(b) Treatment is provided to an individual in compliance with 42 C.F.R. Part 8;

(c) The individual record system complies with all federal and state reporting requirements relevant to opioid drugs approved for use in treatment of opioid use disorder; and

(d) The death of an individual enrolled in an opioid treatment program is reported to the department within one business day.

NEW SECTION

WAC 246-341-1005 Opioid treatment programs (OTP)—Agency certification requirements. An agency applying to provide opioid treatment program services must do all of the following:

(1) Submit to the department documentation that the agency has communicated with the county legislative authority and if applicable, the city legislative authority or tribal authority, in order to secure a location for the new opioid treatment program that meets county, tribal or city land use ordinances.

(2) Ensure that a community relations plan developed and completed in consultation with the county, city, or tribal authority or their designee, in order to minimize the impact of the opioid treatment programs upon the business and residential neighborhoods in which the program is located. The plan must include:

(a) Documentation of the strategies used to:

(i) Obtain stakeholder input regarding the proposed location;

(ii) Address any concerns identified by stakeholders; and
 (iii) Develop an ongoing community relations plan to address new concerns expressed by stakeholders.

(b) For new applicants who operate opioid treatment programs in another state, copies of all survey reports written by their national accreditation body and state certification, if applicable, within the past six years.

(3) Have concurrent approval to provide an opioid treatment program by:

(a) The Washington state department of health board of pharmacy;

(b) The federal Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Administration (SAMHSA), as required by 42 C.F.R. Part 8 for certification as an opioid treatment program; and

(c) The federal Drug Enforcement Administration (DEA).

(4) An agency must ensure that the opioid treatment program is provided to an individual in compliance with the applicable requirements in 42 C.F.R. Part 8 and 21 C.F.R. Part 1301.

(5) The department may deny an application for certification when the applicant has not demonstrated in the past, the capability to provide the appropriate services to assist individuals using the program to meet goals established by the legislature.

NEW SECTION

WAC 246-341-1010 Opioid treatment programs (OTP)—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 246-341-0400 through 246-341-0530, an agency providing substance use disorder opioid treatment program services must:

(1) Appoint a program sponsor, as defined in 42 C.F.R. Part 8, who is responsible for notifying the federal Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), the federal Drug Enforcement Administration (DEA), the department, and the Washington state board of pharmacy of any theft or significant loss of a controlled substance.

(2) Ensure there is an appointed medical director who:

(a) Is licensed by the department to practice medicine and practices within their scope of practice;

(b) Is responsible for all medical services performed; and

(c) Ensures all medical services provided are in compliance with applicable federal, state, and local rules and laws.

(3) Ensure all medical services provided are provided by an appropriate DOH-credentialed medical provider practicing within their scope of practice.

(4) Ensure at least one staff member has documented training in:

(a) Family planning;

(b) Prenatal health care; and

(c) Parenting skills.

(5) Ensure that at least one staff member is on duty at all times who has documented training in:

(a) Cardiopulmonary resuscitation (CPR); and

(b) Management of opioid overdose.

NEW SECTION

WAC 246-341-1015 Opioid treatment programs (OTP)—Clinical record content and documentation requirements. In addition to the general clinical record content requirements in WAC 246-341-0640, an agency providing substance use disorder opioid treatment program services must maintain an individual's clinical record. The clinical record must contain:

(1) Documentation that the agency made a good faith effort to review if the individual is enrolled in any other opioid treatment program and take appropriate action;

(2) Documentation that the individual received a copy of the rules and responsibilities for treatment participants, including the potential use of interventions or sanction;

(3) Documentation that the individual service plan was reviewed quarterly and semi-annually after two years of continuous treatment;

(4) Documentation when an individual refuses to provide a drug testing specimen sample. The refusal is considered a positive drug screen specimen;

(5) Documentation of the results and the discussion held with the individual regarding any positive drug screen specimens in the counseling session immediately following the notification of positive results; and

(6) Documentation of all medical services (see WAC 246-341-1020 and 246-341-1025 regarding program physician responsibility and medication management).

NEW SECTION

WAC 246-341-1020 Opioid treatment programs (OTP)—Program physician responsibility. An agency providing substance use disorder opioid treatment program services must ensure the program physician, or the medical practitioner under supervision of the program physician, performs and meets the following:

(1) The program physician or medical practitioner under supervision of the program physician:

(a) Is responsible to verify an individual is currently addicted to an opioid drug and that the person became addicted at least twelve months before admission to treatment; or

(b) May waive the twelve month requirement in (a) of this subsection upon receiving documentation that the individual:

(i) Was released from a penal institution, if the release was within the previous six months;

(ii) Is pregnant; or

(iii) Was previously treated within the previous twenty-four months.

(2) A physical evaluation must be completed on the individual before admission that includes the determination of opioid use disorder consistent with the current and applicable Diagnostic and Statistical Manual of Mental Disorders (DSM-5) criteria, and an assessment for appropriateness for Sunday and holiday take-home medication;

(3) A review must be completed by the department prescription drug monitoring program data on the individual:

(a) At admission;

(b) Annually after the date of admission; and

(c) Subsequent to any incidents of concern.

(4) All relevant facts concerning the use of the opioid drug must be clearly and adequately explained to each individual;

(5) Current written and verbal information must be provided to pregnant individuals, before the initial prescribed dosage regarding:

(a) The concerns of possible substance use disorder, health risks, and benefits the opioid treatment medication may have on the individual and the fetus;

(b) The risk of not initiating opioid treatment medication on the individual and the fetus; and

(c) Referral options to address neonatal abstinence syndrome for the baby.

(6) Each individual voluntarily choosing to receive maintenance treatment must sign an informed consent to treatment;

(7) Within fourteen days of admission, a medical examination must be completed that includes:

(a) Documentation of the results of serology and other tests; and

(b) An assessment for the appropriateness of take-home medications as required by 42 C.F.R. Part 8.12(i).

(8) When exceptional circumstances exist for an individual to be enrolled with more than one opioid treatment program agency, justification granting permission must be documented in the individual's clinical record at each agency;

(9) Each individual admitted to withdrawal management services must have an approved withdrawal management schedule that is medically appropriate;

(10) Each individual administratively discharged from services must have an approved withdrawal management schedule that is medically appropriate;

(11) An assessment for other forms of treatment must be completed for each individual who has two or more unsuccessful withdrawal management episodes within twelve consecutive months; and

(12) An annual medical examination must be completed on each individual that includes the individual's overall physical condition and response to medication.

NEW SECTION

WAC 246-341-1025 Opioid treatment programs (OTP)—Medication management. An agency providing substance use disorder opioid treatment program services must ensure the medication management requirements in this section are met.

(1) An agency must use only those opioid treatment medications that are approved by the Food and Drug Administration under section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opioid use disorder.

(2) An agency providing an opioid treatment program that is fully compliant with the procedures of an investigational use of a drug and other conditions set forth in the application may administer a drug that has been authorized by the Food and Drug Administration under an investigational new drug application under section 505(i) of the federal Food, Drug, and Cosmetic Act for investigational use in the treat-

ment of opioid addiction. The following opioid treatment medications are approved by the Food and Drug Administration for use in the treatment of opioid use disorder:

(a) Methadone; and

(b) Buprenorphine.

(3) An agency providing opioid treatment program services must ensure that initial dosing requirements are met as follows:

(a) Methadone must be administered or dispensed only in oral form and is formulated in such a way as to reduce its potential for parenteral abuse;

(b) The initial dose of methadone must not exceed thirty milligrams and the total dose for the first day must not exceed forty milligrams, unless the program physician documents in the individual's record that forty milligrams did not suppress opioid abstinence symptoms; and

(c) The establishment of the initial dose must consider:

(i) Signs and symptoms of withdrawal;

(ii) Individual comfort; and

(iii) Side effects from over medication.

(4) An agency providing an opioid treatment program services must ensure that:

(a) Each opioid treatment medication used by the program is administered and dispensed in accordance with its approved product labeling;

(b) All dosing and administration decisions are made by a:

(i) Program physician; or

(ii) Medical practitioner under supervision of a program physician familiar with the most up-to-date product labeling.

(c) Any significant deviations from the approved labeling, including deviations with regard to dose, frequency, or the conditions of use described in the approved labeling, are specifically documented in the individual's record.

(5) An agency providing opioid treatment program services must ensure that all take-home medications are:

(a) Consistent with 42 C.F.R. Part 8.12 (i)(1) through (5) and are authorized only to stable individuals who:

(i) Have received opioid treatment medication for a minimum of ninety days; and

(ii) Have not had any positive drug screens in the last sixty days.

(b) Assessed and authorized, as appropriate, for a Sunday or legal holiday as identified in RCW 1.16.050;

(c) Assessed and authorized, as appropriate, when travel to the facility presents a safety risk for an individual or staff member due to inclement weather; and

(d) Not allowed in short-term withdrawal management or interim maintenance treatment.

(6) All exceptions to take-home requirements must be submitted and approved by the state opioid treatment authority and Substance Abuse and Mental Health Services Administration (SAMHSA).

SECTION ELEVEN—WITHDRAWAL MANAGEMENT, RESIDENTIAL SUBSTANCE USE DISORDER, AND MENTAL HEALTH INPATIENT SERVICES

NEW SECTION

WAC 246-341-1100 Withdrawal management services—Adults. Substance use disorder withdrawal management services are provided to an individual to assist in the process of withdrawal from psychoactive substances in a safe and effective manner, in accordance with ASAM criteria. For secure withdrawal management and stabilization services for individuals who have been involuntarily committed, see WAC 246-341-1104.

(1) A behavioral health agency certified for adult withdrawal management services may choose to also become certified to provide youth withdrawal management services (see WAC 246-341-1102).

(2) An agency providing withdrawal management services to an individual must:

(a) Be a facility licensed by the department under one of the following chapters:

(i) Hospital licensing regulations (chapter 246-320 WAC);

(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);

(iii) Private alcohol and substance use disorder hospitals (chapter 246-324 WAC); or

(iv) Residential treatment facility (chapter 246-337 WAC).

(b) Be licensed by the department as a behavioral health agency;

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650; and

(d) Have policies and procedures to support and implement the specific requirements in this section.

(3) An agency must:

(a) Use ASAM criteria for admission, continued services, and discharge planning and decisions;

(b) Provide counseling to each individual that addresses the individual's:

(i) Substance use disorder and motivation; and

(ii) Continuing care needs and need for referral to other services.

(c) Maintain a list of resources and referral options that can be used by staff members to refer an individual to appropriate services;

(d) Post any rules and responsibilities for individuals receiving treatment, including information on potential use of increased motivation interventions or sanctions, in a public place in the facility;

(e) Provide tuberculosis screenings to individuals for the prevention and control of tuberculosis; and

(f) Provide HIV/AIDS information and include a brief risk intervention and referral as indicated.

(4) Ensure that each staff member providing withdrawal management services to an individual, with the exception of

licensed staff members and chemical dependency professionals, completes a minimum of forty hours of documented training before being assigned individual care duties. This personnel training must include the following topics:

(a) Substance use disorders;

(b) Infectious diseases, to include hepatitis and tuberculosis (TB); and

(c) Withdrawal screening, admission, and signs of trauma.

(5) In addition to the general clinical record content requirements in WAC 246-341-0640, an agency providing substance use disorder withdrawal management services must maintain an individual's clinical record that contains:

(a) Documentation of a substance use disorder screening before admission;

(b) A voluntary consent to treatment form, or any release forms, signed and dated by the individual, or the individual's parent or legal guardian, except as authorized by law for protective custody and involuntary treatment;

(c) Documentation that the individual received HIV/AIDS information and a brief risk intervention and referral as indicated; and

(d) Documentation that a discharge summary, including a continuing care recommendation and a description of the individual's physical condition, was completed within seven working days of discharge.

NEW SECTION

WAC 246-341-1102 Withdrawal management services—Youth. Youth withdrawal management services are substance use disorder services provided to an individual seventeen years of age or younger. In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 and the adult withdrawal management requirements in WAC 246-341-1100, an agency providing youth withdrawal management services must do all of the following:

(1) Admit youth only with the written permission of the youth's parent or, if applicable, the youth's legal guardian. If a youth meets the requirements of a child in need of services (CHINS), the youth may sign themselves into treatment.

(2) Assess the individual's need for referral to the department of children, youth, and families.

(3) Ensure the following for individuals who share a room:

(a) An individual fifteen years of age or younger must not room with an individual eighteen years of age or older; and

(b) An individual sixteen or seventeen years of age must be evaluated for clinical appropriateness before being placed in a room with an individual eighteen years of age or older.

(4) Allow communication between the youth and the youth's parent or if applicable, a legal guardian, and facilitate the communication when clinically appropriate.

(5) Notify the parent or legal guardian within two hours of any change in the status of the youth and document all notification and attempts of notification in the clinical record.

(6) Discharge the youth to the care of the parent or legal guardian. For emergency discharge and when the parent or legal guardian is not available, the agency must contact the appropriate authority.

(7) Ensure at least one adult staff member of each gender is present or available by phone at all times if coeducational treatment services are provided.

(8) Ensure a staff member who demonstrates knowledge of adolescent development and substance use disorders is available at the facility or available by phone.

NEW SECTION

WAC 246-341-1104 Secure withdrawal management and stabilization services—Adults. Secure withdrawal management and stabilization services are provided to an individual to assist in the process of withdrawal from psychoactive substances in a safe and effective manner, or medically stabilize an individual after acute intoxication, in accordance with ASAM criteria and chapters 71.05 and 71.34 RCW.

(1) In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650, an agency must:

(a) Meet the requirements for withdrawal management services in WAC 246-341-1100; and

(b) Designate a physician or chemical dependency professional as the professional person as defined in RCW 71.05.020 in charge of clinical services at that facility.

(2) An agency certified to provide secure withdrawal management and stabilization services must have the following policies and procedures:

(a) Policies to ensure that services are provided in a secure environment. "Secure" means having:

(i) All doors and windows leading to the outside locked at all times;

(ii) Visual monitoring, either by line of sight or camera as appropriate to the individual;

(iii) Adequate space to segregate violent or potentially violent persons from others;

(iv) The means to contact law enforcement immediately in the event of an elopement from the facility; and

(v) Adequate numbers of staff present at all times that are trained in facility security measures.

(b) Policies to ensure compliance with WAC 246-337-110 regarding seclusion and restraint;

(c) Procedures for admitting individuals needing secure withdrawal management and stabilization services seven days a week, twenty-four hours a day;

(d) Procedures to ensure that once an individual has been admitted, if a medical condition develops that is beyond the facility's ability to safely manage, the individual will be transported to the nearest hospital for emergency medical treatment;

(e) Procedures to assure access to necessary medical treatment, including emergency life-sustaining treatment and medication;

(f) Procedures to assure at least daily contact between each in-voluntary individual and a chemical dependency professional or a trained professional person for the purpose of:

(i) Observation;

(ii) Evaluation;

(iii) Release from involuntary commitment to accept treatment on a voluntary basis; and

(iv) Discharge from the facility to accept voluntary treatment upon referral.

(g) Procedures to assure the protection of individual and family rights as described in WAC 246-341-1122, rights related to antipsychotic medication in WAC 246-341-1124, and rights as described in chapters 71.05 and 71.34 RCW;

(h) Procedures to inventory and safeguard the personal property of the individual being detained, including a process to limit inspection of the inventory list by responsible relatives or other persons designated by the detained individual;

(i) Procedures to assure that a chemical dependency professional and licensed physician, physician assistant, or advanced registered nurse practitioner (ARNP) are available for consultation and communication with the direct patient care staff twenty-four hours a day, seven days a week;

(j) Procedures to warn an identified person and law enforcement when an adult has made a threat against an identified victim as explained in RCW 70.02.050 and in compliance with 42 C.F.R. Part 2;

(k) Procedures to ensure that individuals detained for up to fourteen, ninety, or one hundred eighty additional days of treatment are evaluated by the professional staff of the facility in order to be prepared to testify that the individual's condition is caused by a substance use disorder and either results in likelihood of serious harm or the individual being gravely disabled.

(3) An agency providing secure withdrawal management and stabilization services must document that each individual has received evaluations to determine the nature of the disorder and the treatment necessary, including:

(a) A telephone screening reviewed by a nurse, as defined in chapter 18.79 RCW, or medical practitioner prior to admission that includes current level of intoxication, available medical history, and known medical risks;

(b) An evaluation by a chemical dependency professional within seventy-two hours of admission to the facility; and

(c) An assessment for substance use disorder and additional mental health disorders or conditions, using the global appraisal of individual needs - Short screener (GAIN-SS) or its successor.

(4) For individuals admitted to the secure withdrawal management and stabilization facility, the clinical record must contain:

(a) A statement of the circumstances under which the person was brought to the unit;

(b) The admission date and time;

(c) The date and time when the involuntary detention period ends;

(d) A determination of whether to refer to a designated crisis responder to initiate civil commitment proceedings;

(e) If an individual is admitted voluntarily and appears to meet the criteria for initial detention, documentation that an evaluation was performed by a designated crisis responder within the time period required in RCW 71.05.050, the results of the evaluation, and the disposition;

(f) Review of the client's current crisis plan, if applicable and available; and

(g) Review of the admission diagnosis and what information the determination was based upon.

(5) An agency certified to provide secure withdrawal management and stabilization services must ensure the treatment plan includes all of the following:

(a) A protocol for safe and effective withdrawal management, including medications as appropriate;

(b) Discharge assistance provided by chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual.

(6) An agency certified to provide secure withdrawal management and stabilization services must ensure that each staff member providing withdrawal management services to an individual, with the exception of licensed staff members and CDPs, completes a minimum of forty hours of documented training before being assigned individual care duties. This personnel training must include the following topics:

(a) Substance use disorders;

(b) Infectious diseases, to include hepatitis and tuberculosis (TB); and

(c) Withdrawal screening, admission, and signs of trauma.

NEW SECTION

WAC 246-341-1106 Secure withdrawal management and stabilization services—Youth. In addition to the requirements for secure withdrawal and stabilization services in WAC 246-341-1100, and requirements for adult secure withdrawal management and stabilization services in WAC 246-341-1104, an agency certified to provide secure withdrawal management and stabilization services to youth must meet the following requirements:

(1) Requirements for withdrawal management services for youth in WAC 246-341-1102;

(2) Requirements for the posting of individual rights for minors in WAC 246-341-1120; and

(3) Requirements for inpatient services for minors found in WAC 246-341-1128, 246-341-1130, and 246-341-1132.

NEW SECTION

WAC 246-341-1108 Residential substance use disorder treatment services—General. Residential treatment services provide substance use disorder treatment for an individual in a facility with twenty-four hours a day supervision.

(1) Residential treatment services include:

(a) Intensive inpatient services, ASAM level 3.5;

(b) Recovery house treatment services, ASAM level 3.1;

(c) Long-term residential treatment services, ASAM level 3.1; and

(d) Youth residential services, ASAM levels 3.1, 3.5, and 3.7.

(2) An agency certified to provide residential treatment services must:

(a) Be a facility licensed by the department and meet the criteria under one of the following DOH chapters:

(i) Hospital licensing regulations (chapter 246-320 WAC);

(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);

(iii) Private alcohol and substance use disorder hospitals (chapter 246-324 WAC); or

(iv) Residential treatment facility (chapter 246-337 WAC).

(b) Be licensed by the department as a behavioral health agency;

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650;

(d) Have policies and procedures to support and implement the:

(i) General requirements in WAC 246-341-0420; and

(ii) Specific applicable requirements in WAC 246-341-1110 through 246-341-1116.

(e) Use ASAM criteria for admission, continued services, and discharge planning and decisions;

(f) Provide education to each individual admitted to the treatment facility on:

(i) Substance use disorders;

(ii) Relapse prevention;

(iii) Bloodborne pathogens; and

(iv) Tuberculosis (TB).

(g) Provide education or information to each individual admitted on:

(i) Emotional, physical, and sexual abuse;

(ii) Nicotine use disorder; and

(iii) The impact of substance use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy.

(h) Maintain a list or source of resources, including self-help groups, and referral options that can be used by staff to refer an individual to appropriate services;

(i) Screen for the prevention and control of tuberculosis;

(j) Limit the size of group counseling sessions to no more than sixteen individuals;

(k) Have written procedures for:

(i) Urinalysis and drug testing, including laboratory testing; and

(ii) How agency staff members respond to medical and psychiatric emergencies.

(l) The individual service plan is initiated with at least one goal identified by the individual during the initial assessment or at the first service session following the assessment.

(3) An agency that provides services to a pregnant woman must:

(a) Have a written procedure to address specific issues regarding the woman's pregnancy and prenatal care needs; and

(b) Provide referral information to applicable resources.

(4) An agency that provides an assessment to an individual under RCW 46.61.5056 must also meet the requirements for driving under the influence (DUI) assessment providers in WAC 246-341-0820.

NEW SECTION**WAC 246-341-1110 Residential substance use disorder treatment services—Intensive inpatient services.**

(1) Intensive inpatient services are substance use disorder residential treatment services that provide a concentrated program of individual and group counseling, education, and activities for an individual who has completed withdrawal management and the individual's family to address overall functioning and to demonstrate aspects of recovery lifestyle.

(2) In addition to meeting the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 and the residential treatment services requirements in WAC 246-341-1108, an agency certified to provide intensive inpatient services must:

(a) Complete the individual service plan within five days of admission;

(b) Conduct and document at least weekly, one face-to-face individual substance use disorder counseling session with the individual;

(c) Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it;

(d) Document at least weekly, an individual service plan review which determines continued stay needs and progress toward goals; and

(e) Provide treatment services in line with ASAM 3.5 components appropriate to youth or adults.

NEW SECTION**WAC 246-341-1112 Residential substance use disorder treatment services—Recovery house.**

(1) Recovery house services are substance use disorder residential treatment services that provide a program of care and treatment with social, vocational, and recreational activities to aid in individual adjustment to abstinence, relapse prevention, recovery skills development, and to aid in job training, employment, or participating in other types of community services.

(2) In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 and the residential treatment services requirements in WAC 246-341-1108, an agency certified to provide recovery house services must:

(a) Provide no less than five hours per week of treatment services in line with ASAM level 3.1;

(b) Progress notes should include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it; and

(c) Conduct and document an individual service plan review at least monthly.

NEW SECTION**WAC 246-341-1114 Residential substance use disorder treatment services—Long-term treatment services.**

(1) Long-term treatment services are substance use disorder residential treatment services that provide a program for an

individual needing consistent structure over a longer period of time to develop and maintain abstinence, develop recovery skills, and to improve overall health.

(2) In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 and the residential treatment services requirements in WAC 246-341-1108 an agency certified to provide long-term treatment services must:

(a) Provide an individual a minimum of two hours each week of individual or group counseling;

(b) Provide no less than five hours per week of treatment services in line with ASAM 3.1 components;

(c) Progress notes should include the date, time, duration, participant names, and a brief summary of the session and the names of the staff member who provided it;

(d) Provide an individual, during the course of services, with:

(i) Education on social and coping skills, relapse prevention, and recovery skills development;

(ii) Social and recreational activities;

(iii) Assistance in seeking employment, when appropriate; and

(iv) Assistance with reentry living skills to include seeking and obtaining safe housing.

(e) Conduct and document an individual service plan review at least monthly.

NEW SECTION**WAC 246-341-1116 Residential substance use disorder treatment services—Youth residential services.**

Youth residential services are substance use disorder residential treatment services provided to an individual seventeen years of age or younger in accordance with ASAM criteria. In addition to meeting the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650 and the residential treatment services requirements in WAC 246-341-1108 an agency certified to provide youth residential services must do all of the following:

(1) Ensure at least one adult staff member of each gender is present or on call at all times if coeducational treatment services are provided.

(2) Ensure group counseling sessions with twelve to sixteen youths include a second adult staff member.

(3) Ensure staff members are trained in safe and therapeutic techniques for dealing with a youth's behavior and emotional crisis, including:

(a) Verbal deescalation;

(b) Crisis intervention;

(c) Anger management;

(d) Suicide assessment and intervention;

(e) Conflict management and problem solving skills;

(f) Management of assaultive behavior;

(g) Proper use of therapeutic physical intervention techniques; and

(h) Emergency procedures.

(4) Provide group meetings to promote personal growth.

(5) Provide leisure, and other therapy or related activities.

(6) Provide seven or more hours of structured recreation each week, that is led or supervised by staff members.

(7) Provide each youth one or more hours per day, five days each week, of supervised academic tutoring or instruction by a certified teacher when the youth is unable to attend school for an estimated period of four weeks or more. The agency must:

(a) Document the individual's most recent academic placement and achievement level; and

(b) Obtain school work from the individual's school, or when applicable, provide school work and assignments consistent with the individual's academic level and functioning.

(8) Conduct random and regular room checks when an individual is in their room, and more often when clinically indicated.

(9) Only admit youth with the written permission of the youth's parent or if applicable, legal guardian. In cases where the youth meets the requirements of a child in need of services (CHINS), the youth may sign themselves into treatment.

(10) Assess the individual's need for referral to the department of children, youth, and families.

(11) Ensure the following for individuals who share a room:

(a) An individual fifteen years of age or younger must not room with an individual eighteen years of age or older; and

(b) An individual sixteen or seventeen years of age must be evaluated for clinical appropriateness before being placed in a room with an individual eighteen years of age or older.

(12) Allow communication between the youth and the youth's parent or if applicable, a legal guardian, and facilitate the communication when clinically appropriate.

(13) Notify the parent or legal guardian within two hours of any change in the status of the youth and document all notifications and attempts of notifications in the clinical record.

(14) Discharge the youth to the care of the youth's parent or if applicable, legal guardian. For emergency discharge and when the parent or legal guardian is not available, the agency must contact the appropriate authority.

(15) Ensure each individual's clinical record:

(a) Contains any consent or release forms signed by the youth and their parent or legal guardian;

(b) Contains the parent's or other referring person's agreement to participate in the treatment process, as appropriate and if possible; and

(c) Documents any problems identified in specific youth assessment, including any referrals to school and community support services, on the individual service plan.

NEW SECTION

WAC 246-341-1118 Mental health inpatient services—General. (1) Inpatient services include the following types of behavioral health services certified by the department:

(a) Evaluation and treatment services;

(b) Child long-term inpatient program (CLIP);

(c) Crisis stabilization units;

(d) Triage services; and

(e) Competency evaluation and treatment services.

(2) An agency providing inpatient services to an individual must:

(a) Be a facility licensed by the department under one of the following chapters:

(i) Hospital licensing regulations (chapter 246-320 WAC);

(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);

(iii) Private alcohol and substance use disorder hospitals (chapter 246-324 WAC); or

(iv) Residential treatment facility (chapter 246-337 WAC).

(b) Be licensed by the department as a behavioral health agency;

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650;

(d) Meet the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132;

(e) Have policies and procedures to support and implement the specific applicable program-specific requirements; and

(f) If applicable, have policies to ensure compliance with WAC 246-337-110 regarding seclusion and restraint.

(3) The behavioral health agency providing inpatient services must document the development of an individualized annual training plan, to include at least:

(a) Least restrictive alternative options available in the community and how to access them;

(b) Methods of individual care;

(c) Deescalation training and management of assaultive and self-destructive behaviors, including proper and safe use of seclusion and restraint procedures; and

(d) The requirements of chapter 71.05 and 71.34 RCW, this chapter, and protocols developed by the department.

(4) If contract staff are providing direct services, the facility must ensure compliance with the training requirements outlined in subsection (4) of this section.

(5) This chapter does not apply to state psychiatric hospitals as defined in chapter 72.23 RCW or facilities owned or operated by the department of veterans affairs or other agencies of the United States government.

NEW SECTION

WAC 246-341-1120 Mental health inpatient services—Posting of individual rights for minors. A behavioral health agency providing inpatient services to minors must ensure that the rights listed in RCW 71.34.355 are prominently posted in the facility and provided in writing to the individual in a language or format that the individual can understand.

NEW SECTION

WAC 246-341-1122 Mental health inpatient services—Rights of individuals receiving inpatient services.

The behavioral health agency providing inpatient services must ensure that the rights listed in RCW 71.05.360 and 71.05.217 are prominently posted in the facility and provided in writing to the individual in a language or format that the individual can understand.

NEW SECTION

WAC 246-341-1124 Mental health inpatient services—Rights related to antipsychotic medication. All individuals have a right to make an informed decision regarding the use of antipsychotic medication consistent with the provisions of RCW 71.05.215 and 71.05.217. The provider must develop and maintain a written protocol for the involuntary administration of antipsychotic medications, including all of the following requirements:

(1) The clinical record must document all of the following:

(a) An attempt to obtain informed consent.

(b) The individual was asked if they wish to decline treatment during the twenty-four hour period prior to any court proceeding wherein the individual has the right to attend and is related to their continued treatment. The answer must be in writing and signed when possible. In the case of a child under the age of eighteen, the psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority must be able to explain to the court the probable effects of the medication.

(c) The reasons why any antipsychotic medication is administered over the individual's objection or lack of consent.

(2) The psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority may administer antipsychotic medications over an individual's objections or lack of consent only when:

(a) An emergency exists, provided there is a review of this decision by a second psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority within twenty-four hours. An emergency exists if all of the following are true:

(i) The individual presents an imminent likelihood of serious harm to self or others;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and

(iii) In the opinion of the psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority, the individual's condition constitutes an emergency requiring that treatment be instituted before obtaining an additional concurring opinion by a second psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse

practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority.

(b) There is an additional concurring opinion by a second psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority, for treatment up to thirty days.

(c) For continued treatment beyond thirty days through the hearing on any one hundred eighty-day petition filed under RCW 71.05.217, provided the facility medical director or director's medical designee reviews the decision to medicate an individual. Thereafter, antipsychotic medication may be administered involuntarily only upon order of the court. The review must occur at least every sixty days.

(3) The examining psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority must sign all one hundred eighty-day petitions for antipsychotic medications filed under the authority of RCW 71.05.217.

(4) Individuals committed for one hundred eighty days who refuse or lack the capacity to consent to antipsychotic medications have the right to a court hearing under RCW 71.05.217 prior to the involuntary administration of antipsychotic medications.

(5) In an emergency, antipsychotic medications may be administered prior to the court hearing provided that an examining psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority files a petition for an antipsychotic medication order the next judicial day.

(6) All involuntary medication orders must be consistent with the provisions of RCW 71.05.217, whether ordered by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority or the court.

NEW SECTION

WAC 246-341-1126 Mental health inpatient services—Policies and procedures—Adult. In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650, and the applicable inpatient service requirements in WAC 246-341-1118 through 246-341-1132, an inpatient facility must implement all of the following administrative requirements:

(1) Policies to ensure that services are provided in a secure environment. "Secure" means having:

(a) All doors and windows leading to the outside locked at all times;

(b) Visual monitoring, either by line of sight or camera as appropriate to the individual;

(c) Adequate space to segregate violent or potentially violent persons from others;

(d) The means to contact law enforcement immediately in the event of an elopement from the facility; and

(e) Adequate numbers of staff present at all times that are trained in facility security measures.

(2) Designation of a professional person as defined in RCW 71.05.020 in charge of clinical services at that facility, as appropriate to the type of inpatient services.

(3) Policies to ensure compliance with WAC 246-337-110 regarding seclusion and restraint.

(4) A policy management structure that establishes:

(a) Procedures for admitting individuals needing treatment seven days a week, twenty-four hours a day, except that child long-term inpatient treatment facilities are exempted from this requirement;

(b) Procedures to assure access to necessary medical treatment, including emergency life-sustaining treatment and medication;

(c) Procedures to assure the protection of individual and family rights as described in this chapter and chapters 71.05 and 71.34 RCW;

(d) Procedures to inventory and safeguard the personal property of the individual being detained according to RCW 71.05.220;

(e) Procedures to assure that a mental health professional, chemical dependency professional, if appropriate, and physician, physician assistant, or psychiatric advanced registered nurse practitioner (ARNP) are available for consultation and communication with the direct patient care staff twenty-four hours a day, seven days a week;

(f) Procedures to warn an identified person and law enforcement when an adult has made a threat against an identified victim as explained in RCW 70.02.050 and in compliance with 42 C.F.R. Part 2; and

(g) Procedures to ensure that individuals detained for up to fourteen, ninety, or one hundred and eighty additional days of treatment are evaluated by the professional staff of the facility in order to be prepared to testify that the individual's condition is caused by a mental disorder or substance use disorder and either results in likelihood of serious harm or the individual being gravely disabled.

(5) For individuals who have been involuntarily detained, the facility must obtain a copy of the petition for initial detention stating the evidence under which the individual was detained.

(6) The facility must document that each individual has received evaluations to determine the nature of the disorder and the treatment necessary, including:

(a) A health assessment of the individual's physical condition to determine if the individual needs to be transferred to an appropriate hospital for treatment;

(b) Examination and medical evaluation within twenty-four hours of admission by a licensed physician, advanced registered nurse practitioner, or physician assistant;

(c) Development of an initial treatment plan while in the facility;

(d) Consideration of less restrictive alternative treatment at the time of admission; and

(e) The admission diagnosis and what information the determination was based upon.

(7) An individual who has been delivered to the facility by a peace officer for evaluation must be evaluated by a mental health professional within the following time frames:

(a) Three hours of an adult individual's arrival;

(b) Twelve hours of arrival for a child in an inpatient evaluation and treatment facility; or

(c) At any time for a child who has eloped from a child long-term inpatient treatment facility and is being returned to the facility.

(8) If the mental health professional or chemical dependency professional and physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the needs of an adult individual would be better served by placement in a another type of service facility then the individual must be referred to an more appropriate placement in accordance with RCW 71.05.210.

(9) The treatment plan must contain documentation of:

(a) Diagnostic and therapeutic services prescribed by the attending clinical staff;

(b) An individual service plan that meets the requirements of WAC 246-341-0620;

(c) Copies of advance directives, powers of attorney or letters of guardianship provided by the individual;

(d) A plan for discharge including a plan for follow-up where appropriate;

(e) Documentation of the course of treatment; and

(f) That a mental health professional or chemical dependency professional, as appropriate, has contact with each involuntary individual at least daily for the purpose of determining the need for continued involuntary treatment.

NEW SECTION

WAC 246-341-1128 Mental health inpatient services—Policies and procedures—Minors. In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650 and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132, inpatient facilities serving minor children seventeen years of age and younger must develop and implement policies and procedures to address special considerations for serving children. These special considerations must include all of the following:

(1) Procedures to ensure that adults are separated from minors who are not yet thirteen years of age.

(2) Procedures to ensure that a minor who is at least age thirteen but not yet age eighteen is served with adults only if the minor's clinical record contains:

(a) Documentation that justifies such placement; and

(b) A professional judgment that placement in an inpatient facility that serves adults will not harm the minor.

(3) Procedures to ensure examination and evaluation of a minor by a children's mental health specialist occurs within twenty-four hours of admission.

(4) Procedures to ensure a facility that provides inpatient services for minors and is licensed by the department under chapter 71.12 RCW, meets the following notification require-

ments if a minor's parent(s) brings the child to the facility for the purpose of behavioral health treatment or evaluation:

(a) Provide a written and oral notice to the minor's parent(s) or legal representative(s) of:

(i) All current statutorily available treatment options available to the minor including, but not limited to, those provided in chapter 71.34 RCW; and

(ii) A description of the procedures the facility will follow to utilize the treatment options.

(b) Obtain and place in the clinical file, a signed acknowledgment from the minor's parent(s) that the notice required under (a) of this subsection was received.

(5) Procedures that address provisions for evaluating a minor brought to the facility for evaluation by a parent(s).

(6) Procedures to notify child protective services any time the facility has reasonable cause to believe that abuse, neglect, financial exploitation or abandonment of a minor has occurred.

(7) Procedures to ensure a minor thirteen years or older who is brought to an inpatient facility or hospital for immediate behavioral health services is evaluated by the professional person in charge of the facility. The professional person must evaluate the minor's condition and determine the need for behavioral health inpatient treatment, and the minor's willingness to obtain voluntary treatment. The facility may detain or arrange for the detention of the minor up to twelve hours for evaluation by a designated crisis responder to commence detention proceedings.

(8) Procedures to ensure that the admission of a minor thirteen years of age or older admitted without parental consent has the concurrence of the professional person in charge of the facility and written review and documentation no less than every one hundred eighty days.

(9) Procedures to ensure that notice is provided to the parent(s) when a minor child is voluntarily admitted to inpatient treatment without parental consent within twenty-four hours of admission in accordance with the requirements of RCW 71.34.510 and within the confidentiality requirements of 42 C.F.R. Sec. 2.14.

(10) Procedures to ensure a minor who has been admitted on the basis of a designated crisis responder petition for detention is evaluated by the facility providing seventy-two hour inpatient services to determine the minor's condition and either admit or release the minor. If the minor is not approved for admission, the facility must make recommendations and referral for further care and treatment as necessary.

(11) Procedures for the examination and evaluation of a minor approved for inpatient admission to include:

(a) The needs to be served by placement in a secure withdrawal management or evaluation and treatment facility;

(b) Restricting the right to associate or communicate with a parent(s); and

(c) Advising the minor of rights in accordance with chapter 71.34 RCW.

(12) Procedures to petition for fourteen-day commitment that are in accordance with RCW 71.34.730.

(13) Procedures for commitment hearing requirements and release from further inpatient treatment that may be subject to reasonable conditions, if appropriate, and are in accordance with RCW 71.34.740.

(14) Procedures for discharge and conditional release of a minor in accordance with RCW 71.34.770, provided that the professional person in charge gives the court written notice of the release within three days of the release. If the minor is on a one hundred eighty-day commitment, the children's long-term inpatient program (CLIP) administrator must also be notified.

(15) Procedures to ensure rights of a minor undergoing treatment and posting of such rights are in accordance with RCW 71.34.355, 71.34.620, and 71.34.370.

(16) Procedures for the release of a minor who is not accepted for admission or who is released by an inpatient facility that are in accordance with RCW 71.34.365.

(17) Procedures to ensure treatment of a minor and all information obtained through treatment under this chapter are disclosed only in accordance with applicable state and federal law.

(18) Procedures to make court records and files available that are in accordance with RCW 71.34.335.

(19) Procedures to release behavioral health services information only in accordance with applicable state and federal statutes.

NEW SECTION

WAC 246-341-1130 Mental health inpatient services—Treatment of a minor without consent of parent.

An inpatient evaluation and treatment facility, approved inpatient substance use disorder facility, or secure withdrawal management and stabilization facility may admit a minor child who is at least thirteen years of age and not older than seventeen years of age without the consent of the minor's parent(s) if the requirements of RCW 71.34.500 through 71.34.530 are met.

NEW SECTION

WAC 246-341-1132 Mental health inpatient services—Treatment of a minor without consent of minor.

An inpatient evaluation and treatment facility, approved inpatient substance use disorder facility, or secure withdrawal management and stabilization facility may admit, evaluate, and treat a minor child seventeen years of age or younger without the consent of the minor if the minor's parent(s) brings the minor to the facility, if the requirements of RCW 71.34.600 through 71.34.660 are met.

NEW SECTION

WAC 246-341-1134 Mental health inpatient services—Evaluation and treatment services.

In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650, and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132 an agency providing evaluation and treatment services must ensure:

(1) Designation of a physician or other mental health professional as the professional person as defined in RCW 71.05.020 in charge of clinical services at that facility; and

(2) A policy management structure that establishes:

(a) Procedures to assure appropriate and safe transportation for persons who are not approved for admission to his or her residence or other appropriate place;

(b) Procedures to detain arrested persons who are not approved for admission for up to eight hours so that reasonable attempts can be made to notify law enforcement to return to the facility and take the person back into custody;

(c) Procedures to assure the rights of individuals to make mental health advance directives, and facility protocols for responding to individual and agent requests consistent with RCW 71.32.150;

(d) Procedures to ensure that if the facility releases the individual to the community, the facility informs the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and has provided contact information to the facility;

(e) Procedures to document that each individual has received evaluations to determine the nature of the disorder and the treatment necessary, including a psychosocial evaluation by a mental health professional; and

(f) For individuals who are being evaluated as dangerous mentally ill offenders under RCW 72.09.370(7), the professional person in charge of the evaluation and treatment facility must consider filing a petition for a ninety day less restrictive alternative in lieu of a petition for a fourteen-day commitment.

NEW SECTION

WAC 246-341-1136 Mental health inpatient services—Exception—Long-term certification. (1) For adults: At the discretion of the department, a facility may be granted an exception in order to allow the facility to be certified to provide treatment to adults on a ninety or one hundred eighty-day inpatient involuntary commitment orders.

(2) For children: At the discretion of the department, a facility that is certified as a 'mental health inpatient evaluation and treatment facility' may be granted an exception to provide treatment to a child on a one hundred and eighty-day inpatient involuntary treatment order only until the child is discharged from his/her order to the community, or until a bed is available for that child in a child long-term inpatient treatment facility (CLIP). The child cannot be assigned by the CLIP placement team in accordance with RCW 71.34.100 to any facility other than a CLIP facility.

(3) The exception certification may be requested by the facility, the director of the department or their designee, or the behavioral health organization for the facility's geographic area.

(4) The facility receiving the long-term exception certification for ninety or one hundred eighty-day patients must meet all requirements found in WAC 246-341-1134.

(5) The exception certification must be signed by the secretary or secretary's designee. The exception certification may impose additional requirements, such as types of consumers allowed and not allowed at the facility, reporting requirements, requirements that the facility immediately report suspected or alleged incidents of abuse, or any other

requirements that the director of the department determines are necessary for the best interests of residents.

(6) The department may make unannounced site visits at any time to verify that the terms of the exception certification are being met. Failure to comply with any term of the exception certification may result in corrective action. If the department determines that the violation places residents in imminent jeopardy, immediate revocation of the certification can occur.

(7) Neither individuals nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding the decision to grant or not to grant exception certification.

NEW SECTION

WAC 246-341-1138 Mental health inpatient services—Child long-term inpatient program (CLIP). In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650, the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1322, and the evaluation and treatment service requirements of WAC 246-341-1134, child long-term inpatient treatment facilities must develop a written plan for assuring that services provided are appropriate to the developmental needs of children, including all of the following:

(1) If there is not a child psychiatrist on the staff, there must be a child psychiatrist available for consultation.

(2) There must be a psychologist with documented evidence of skill and experience in working with children available either on the clinical staff or by consultation, responsible for planning and reviewing psychological services and for developing a written set of guidelines for psychological services.

(3) There must be a registered nurse, with training and experience in working with psychiatrically impaired children, on staff as a full-time or part-time employee who must be responsible for all nursing functions.

(4) There must be a social worker with experience in working with children on staff as a full-time or part-time employee who must be responsible for social work functions and the integration of these functions into the individual treatment plan.

(5) There must be an educational/vocational assessment of each resident with appropriate educational/vocational programs developed and implemented or assured on the basis of that assessment.

(6) There must be an occupational therapist available who has experience in working with psychiatrically impaired children responsible for occupational therapy functions and the integration of these functions into treatment.

(7) There must be a recreational therapist available who has had experience in working with psychiatrically impaired children responsible for the recreational therapy functions and the integration of these functions into treatment.

(8) Disciplinary policies and practices must be stated in writing and all of the following must be true:

(a) Discipline must be fair, reasonable, consistent and related to the behavior of the resident. Discipline, when

needed, must be consistent with the individual treatment plan.

(b) Abusive, cruel, hazardous, frightening or humiliating disciplinary practices must not be used. Seclusion and restraints must not be used as punitive measures. Corporal punishment must not be used.

(c) Disciplinary measures must be documented in the medical record.

(9) Residents must be protected from assault, abuse and neglect. Suspected or alleged incidents of nonaccidental injury, sexual abuse, assault, cruelty or neglect to a child must be reported to a law enforcement agency or to the department of children, youth, and families and comply with chapter 26.44 RCW.

(10) Orientation material must be made available to any facility personnel, clinical staff or consultants informing practitioners of their reporting responsibilities and requirements. Appropriate local police and department phone numbers must be available to personnel and staff.

(11) When suspected or alleged abuse is reported, the medical record must reflect the fact that an oral or written report has been made to the child protective services of DSHS or to a law enforcement agency. This note must include the date and time that the report was made, the agency to which it was made and the signature of the person making the report. Contents of the report need not be included in the medical record.

NEW SECTION

WAC 246-341-1140 Mental health inpatient services—Crisis stabilization unit—Agency facility and administrative standards. In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650 and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132, an agency certified to provide crisis stabilization unit services must meet all of the following criteria:

(1) Be licensed by the department.

(2) If a crisis stabilization unit is part of a jail, the unit must be located in an area of the building that is physically separate from the general population. "Physically separate" means:

(a) Out of sight and sound of the general population at all times;

(b) Located in an area with no foot traffic between other areas of the building, except in the case of emergency evacuation; and

(c) Has a secured entrance and exit between the unit and the rest of the facility.

(3) The professional person in charge of administration of the unit must be a mental health professional.

(4) Have a policy management structure that establishes:

(a) Procedures to ensure that for persons who have been brought to the unit involuntarily by police, the stay is limited to twelve hours unless the individual has signed voluntarily into treatment;

(b) Procedures to ensure that within twelve hours of the time of arrival to the crisis stabilization unit, individuals who

have been detained by a designated crisis responder under chapter 71.05 or 70.96B RCW are transferred to a certified evaluation and treatment facility;

(c) Procedures to assure appropriate and safe transportation of persons who are not approved for admission or detained for transfer to an evaluation and treatment facility, and if not in police custody, to their respective residence or other appropriate place;

(d) Procedures to detain arrested persons who are not approved for admission for up to eight hours so that reasonable attempts can be made to notify law enforcement to return to the facility and take the person back into custody;

(e) Procedures to ensure that a mental health professional is on-site twenty-four hours a day, seven days a week;

(f) Procedures to ensure that a licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner (ARNP) is available for consultation to direct care staff twenty-four hours a day, seven days a week;

(g) Procedures to ensure that the following requirements are met when an individual is brought to the facility by a peace officer under RCW 71.05.153:

(i) Within twelve hours of arrival, a designated crisis responder (DCR) must determine if the individual meets detention criteria under chapter 71.05 RCW; and

(ii) If the facility releases the individual to the community, the facility must inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and has provided contact information to the facility.

(h) Procedures to ensure the rights of persons to make mental health advance directives;

(i) Procedures to establish unit protocols for responding to the provisions of the advanced directives consistent with RCW 71.32.150; and

(j) Procedures to assure that restraint and seclusion are utilized only to the extent necessary to ensure the safety of patients and others, and in accordance with WAC 246-337-110, 246-322-180, and 246-320-745(6).

(5) Prominently post within the crisis stabilization unit the rights stated in WAC 246-341-1122, Mental health inpatient services—Rights of individuals receiving inpatient services, and provide them in writing to the individual in a language or format that the individual can understand.

NEW SECTION

WAC 246-341-1142 Mental health inpatient services—Crisis stabilization unit—Admission, assessment, and records. (1) For persons who have been brought to the unit involuntarily by police:

(a) The clinical record must contain:

(i) A statement of the circumstances under which the person was brought to the unit;

(ii) The admission date and time; and

(iii) The date and time when the twelve hour involuntary detention period ends.

(b) The evaluation required in subsection (2)(b) of this section must be performed within three hours of arrival at the facility.

(2) For all persons, the clinical record must contain:

(a) An assessment for substance use disorder and co-occurring mental health and substance abuse disorder, utilizing the global appraisal of individual needs - Short screener (GAIN-SS) or its successor;

(b) An evaluation by a mental health professional to include at a minimum:

(i) Mental status examination;

(ii) Assessment of risk of harm to self, others, or property; and

(iii) Determination of whether to refer to a designated crisis responder (DCR) to initiate civil commitment proceedings.

(c) Documentation that an evaluation by a DCR was performed within the required time period, the results of the evaluation, and the disposition of the person;

(d) Review of the person's current crisis plan, if applicable and available;

(e) The admission diagnosis and what information the determination was based upon;

(f) Assessment and stabilization services provided by the appropriate staff;

(g) Coordination with the person's current treatment provider, if applicable; and

(h) A plan for discharge, including a plan for follow up that includes:

(i) The name, address, and telephone number of the provider of follow-up services; and

(ii) The follow up appointment date and time, if known.

(3) For persons admitted to the crisis stabilization unit on a voluntary basis, the clinical record must contain a crisis stabilization plan developed collaboratively with the person within twenty-four hours of admission that includes:

(a) Strategies and interventions to resolve the crisis in the least restrictive manner possible;

(b) Language that is understandable to the person and members of the person's support system; and

(c) Measurable goals for progress toward resolving the crisis and returning to an optimal level of functioning.

(4) If antipsychotic medications are administered, the clinical record must document:

(a) The physician's attempt to obtain informed consent for antipsychotic medication; and

(b) The reasons why any antipsychotic medication is administered over the person's objection or lack of consent.

NEW SECTION

WAC 246-341-1144 Mental health inpatient services—Triage—Agency facility and administrative requirements. Under chapter 71.05 RCW, the department certifies facilities to provide triage services that assess and stabilize an individual, or determine the need for involuntary commitment. The department does not require a facility licensed by the department that was providing assessment and stabilization services under chapter 71.05 RCW as of April, 22, 2011, to relicense or recertify under these rules. A request for an exemption must be made to the department.

(1) In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in

WAC 246-341-0100 through 246-341-0650 and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132, an agency certified to provide triage services must:

(a) Be licensed by the department as a residential treatment facility;

(b) Meet the requirements for voluntary admissions under this chapter;

(c) Meet the requirements for involuntary admissions under this chapter if it elects to operate and be certified as a triage involuntary placement facility;

(d) Ensure that the facility and its services are accessible to individuals with disabilities, as required by applicable federal, state, and local laws; and

(e) Admit only individuals who are eighteen years of age and older.

(2) If a triage facility is collocated in another facility, there must be a physical separation. Physically separate means the triage facility is located in an area with no resident foot traffic between the triage facility and other areas of the building, except in case of emergencies.

(3) A triage facility must have, at a minimum, all of the following:

(a) A designated person in charge of administration of the triage unit.

(b) A mental health professional (MHP) on-site twenty-four hours a day, seven days a week.

(c) A written program description that includes:

(i) Program goals;

(ii) Identification of service categories to be provided;

(iii) Length of stay criteria;

(iv) Identification of the ages or range of ages of individual populations to be served;

(v) A statement that only an individual eighteen years of age or older may be admitted to the triage facility; and

(vi) Any limitation or inability to serve or provide program services to an individual who:

(A) Requires acute medical services;

(B) Has limited mobility;

(C) Has limited physical capacity for self-care; or

(D) Exhibits physical violence.

(d) Written procedures to ensure a secure and safe environment. Examples of these procedures are:

(i) Visual monitoring of the population environment by line of sight, mirrors or electronic means;

(ii) Having sufficient staff available twenty-four hours a day, seven days a week to meet the behavioral management needs of the current facility population; and

(iii) Having staff trained in facility security and behavioral management techniques.

(e) Written procedures to ensure that an individual is examined by an MHP within three hours of the individual's arrival at the facility.

(f) Written procedures to ensure that a designated crisis responder (DCR) evaluates a voluntarily admitted individual for involuntary commitment when the individual's behavior warrants an evaluation.

(g) A written declaration of intent and written procedures that are in accordance with WAC 246-337-110 if the triage

facility declares intent to provide either seclusion or restraint or both.

(i) The seclusion or restraint may only be used to the extent necessary for the safety of the individual or others and only used when all less restrictive measures have failed; and

(ii) The facility must clearly document in the clinical record:

(A) The threat of imminent danger;

(B) All less restrictive measures that were tried and found to be ineffective; and

(C) A summary of each seclusion and restraint event, including a debriefing with staff members and the individual regarding how to prevent the occurrence of similar incidents in the future.

(h) Written procedures to facilitate appropriate and safe transportation, if necessary, for an individual who is:

(i) Not being held for either police custody, or police pick up, or both;

(ii) Denied admission to the triage facility; or

(iii) Detained for transfer to a certified evaluation and treatment facility.

(4) The triage facility must document that each staff member has the following:

(a) Adequate training regarding the least restrictive alternative options available in the community and how to access them;

(b) Training that meets the requirements of RCW 71.05.720 on safety and violence;

(c) Training that meets the requirements of RCW 71.05.705 if the triage facility is performing outreach services;

(d) Adequate training regarding methods of health care as defined in WAC 246-337-005(19); and

(e) Adequate training regarding the proper and safe use of seclusion and restraint procedures if the triage facility employs these techniques.

(5) The triage facility must ensure:

(a) Each clinical supervisor and each clinical staff member meets the qualifications of a mental health professional;

(b) A clinical staff member who does not meet the qualifications for an MHP is supervised by an MHP if the staff member provides direct services to individuals; and

(c) A contracted staff member who provides direct services to individuals meets the requirements of this section.

NEW SECTION

WAC 246-341-1146 Mental health inpatient services—Triage—Admission, assessment, and records. An agency certified to provide triage services must ensure the requirements in this section are met for each voluntary and involuntary admission. See WAC 246-341-1152(2) for additional requirements for an individual brought to a triage involuntary placement facility by a peace officer. See WAC 246-341-1152(3) for additional requirements for an individual involuntarily admitted to a triage involuntary placement facility based on a peace officer-initiated twelve-hour hold.

(1) Each individual must be assessed for substance use disorder and co-occurring mental health and substance abuse disorder as measured by the global appraisal on individual

need-short screen (GAIN-SS) as it existed on the effective date of this section, or such subsequent date consistent with the purposes of this section. The clinical record must contain the results of the assessment.

(2) Each individual must be assessed by a mental health professional (MHP) within three hours of the individual's arrival at the facility.

(a) The assessment must include, at a minimum:

(i) A brief history of mental health or substance abuse treatment; and

(ii) An assessment of risk of harm to self, others, or grave disability.

(b) The MHP must request:

(i) The names of treatment providers and the treatment provided; and

(ii) Emergency contact information.

(c) The MHP must document all of the following in the individual's clinical record:

(i) All the information obtained in (a) and (b) of this subsection.

(ii) Sufficient information to demonstrate medical necessity. Medical necessity is defined in the state plan as "A term for describing a requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions in the recipient that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. For the purpose of this chapter "course of treatment" may include mere observation, or where appropriate, no treatment at all."

(iii) Sufficient clinical information to justify a provisional diagnosis using criteria in the current and applicable Diagnostic and Statistical Manual of Mental Disorders (DSM-5).

(3) Each individual must receive a health care screening to determine the individual's health care needs.

(a) The health care screening instrument must be provided by a licensed health care provider defined in WAC 246-337-005. A licensed health care provider must be available to staff for staff consultation twenty-four hours a day, seven days a week.

(b) The individual's clinical record must contain the results of the health care screening.

(4) A qualified staff member according to WAC 246-341-1144(4) must coordinate with the individual's current treatment provider, if applicable, to assure continuity of care during admission and upon discharge.

(5) Each individual's clinical record must:

(a) Contain a statement regarding the individual circumstances and events that led to the individual's admission to the facility;

(b) Document the admission date and time;

(c) Contain the results of the health care screening required in subsection (3) of this section;

(d) Document the date and time of a referral to a designated crisis responder (DCR), if a referral was made;

(e) Document the date and time of release, or date and time the twelve-hour hold ended; and

(f) Document any use of seclusion or restraint and include:

(i) Documentation that the use of either seclusion, or restraint, or both, occurred only due to the individual being an imminent danger to self or others; and

(ii) A description of the less restrictive measures that were tried and found to be ineffective.

(6) A triage facility that declares any intent to provide seclusion, or restraint, or both, to an individual may do so only to the extent necessary for the safety of others and in accordance with WAC 246-322-180, 246-337-110, and 246-320-271. See also WAC 246-341-1144 (3)(g).

(7) A triage facility must document the efforts and services provided to meet the individual's triage stabilization plan.

(8) A triage facility must document the date, time, and reason an individual's admission status changed from involuntary to voluntary.

NEW SECTION

WAC 246-341-1148 Mental health inpatient services—Triage—Stabilization plan. A triage stabilization plan must be developed for each individual voluntarily or involuntarily admitted to a triage facility for longer than twenty-four hours. For an individual admitted twenty-four hours or less, the facility must document the results of the assessment performed by a mental health professional (MHP) required under WAC 246-341-1146.

(1) The triage stabilization plan must:

(a) Be developed collaboratively with the individual within twenty-four hours of admission;

(b) Either improve or resolve the individual's crisis, or both in the least restrictive manner possible;

(c) Be written in a language that is understandable to the individual or the individual's support system, or both, if applicable;

(d) Be mindful of the individual's culture, life style, economic situation, and current mental and physical limitation;

(e) Have goals that are relevant to the presenting crisis and demonstrate how they impact the crisis by improving the individual's ability to function;

(f) Include any recommendation for treatment from the mental health professional (MHP) assessment provided with three hours of the individual's arrival at the facility; and

(g) Include:

(i) The date and time the designated crisis responder (DCR) evaluated the individual in accordance with the detention criteria under chapter 71.05 RCW; and

(ii) The DCR's determination of whether the individual should be detained.

(2) The individual's clinical record must:

(a) Contain a copy of the triage stabilization plan;

(b) Contain charting that demonstrates how requirements of the individual's triage stabilization were met; and

(c) Document the services provided to the individual.

NEW SECTION

WAC 246-341-1150 Mental health inpatient services—Triage—Discharge. A triage facility must:

(1) Provide discharge services for each individual:

(a) Voluntarily admitted to the facility; or

(b) Involuntarily admitted to the facility if the individual is not transferred to another facility.

(2) Coordinate with the individual's current treatment provider, if applicable, to transition the individual back to the provider; and

(3) Develop a discharge plan and follow-up services from the triage facility that includes:

(a) The name, address, and telephone number of the provider;

(b) The designated contact person; and

(c) The appointment date and time for the follow-up services, if appropriate.

NEW SECTION

WAC 246-341-1152 Mental health inpatient services—Triage—Involuntary. An agency that elects to provide triage involuntary services must meet all of the following requirements:

(1) The agency must have a memo of understanding developed in consultation with local law enforcement agencies, which details the population that the facility has capacity to serve. The memo of understanding must include, at a minimum, a description of the facility's:

(a) Capacity to serve individuals with any medication, medical, or accommodation needs;

(b) Capacity to serve individuals with behavioral management needs;

(c) Ability to provide either seclusion, or restraint, or both, to individuals;

(d) Notification procedures for discharge of individuals; and

(e) Procedures for notifying the appropriate law enforcement agency of an individual's release, transfer, or hold for up to twelve hours to allow the peace officer to reclaim the individual.

(2) Agencies must have written procedures to ensure all of the following for individuals brought to a triage involuntary placement facility by a peace officer:

(a) An individual detained by the designated crisis responder (DCR) under chapter 71.05 RCW with a confirmed admission date to an evaluation and treatment facility, may remain at the triage facility until admitted to the evaluation and treatment facility.

(i) The individual may not be detained to the triage facility; and

(ii) An individual who agrees to a voluntary stay must provide a signature that documents the agreement.

(b) The individual is examined by a mental health professional (MHP) within three hours of the individual's arrival at the facility, and the examination includes an assessment to determine if a DCR evaluation is also required.

(c) If it is determined a DCR evaluation is required, the DCR must evaluate the individual within twelve hours of arrival. The DCR determines whether the individual:

- (i) Meets detention criteria under chapter 71.05 RCW; or
- (ii) Agrees to accept voluntary admission by providing their signature agreeing to voluntary treatment.

(3) Agencies must ensure the clinical record includes all of the following for individuals involuntarily admitted to a triage involuntary placement facility based on a peace officer-initiated twelve-hour hold:

(a) The date and time the individual arrived at the facility and the date and time the examination by the mental health professional (MHP) occurred. The examination must occur within three hours of the individual's arrival to the facility.

(b) The peace officer's:

(i) Determination for cause to have the individual transported to the facility;

(ii) Request to be notified if the individual leaves the facility and how the peace officer is to be contacted, or documentation of other person(s) permitted to be contacted, such as the shift supervisor of the law enforcement agency or dispatcher; and

(iii) Request that the individual be held for the duration of the twelve hours to allow the peace officer sufficient time to return and make a determination as to whether or not to take the individual into custody.

(c) A copy of the evaluation if the individual is determined by a DCR to meet detention criteria under chapter 71.05 RCW.

NEW SECTION

WAC 246-341-1154 Mental health inpatient services—Competency evaluation and restoration. A behavioral health agency may provide competency evaluation and restoration treatment services to individuals under chapter 10.77 RCW when the department certifies the services.

(1) In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650 and the inpatient services requirements in WAC 246-341-1118 through 246-341-1132, an agency providing competency evaluation and restoration services must be licensed by the department as:

(a) A residential treatment facility consistent with chapter 246-337 WAC;

(b) A hospital consistent with chapter 246-320 WAC;

(c) A private psychiatric hospital consistent with chapter 246-322 WAC; or

(d) An inpatient evaluation and treatment facility as provided in WAC 246-341-1134 and consistent with chapter 246-337 WAC.

(2) The administrative policies and procedures must include:

(a) Designation of a psychiatrist as the professional person in charge of clinical services at the agency;

(b) Procedures to assure the protection of individual participant rights in WAC 246-341-1156; and

(c) Procedures to assure that seclusion and restraint are used only to the extent necessary to ensure the safety of the individual see WAC 246-341-1158.

(3) The clinical record must include all of the following:

(a) A copy of the court order and charging documents. If the order is for competency restoration treatment and the competency evaluation was provided by a qualified expert or professional person who was not designated by the secretary, a copy of all previous court orders related to competency or criminal insanity provided by the state and a copy of any evaluation reports must be included.

(b) A copy of the discovery materials, including, at a minimum, a statement of the individual's criminal history.

(c) A copy of the individual's medical clearance information.

(d) All diagnostic and therapeutic services prescribed by the attending clinical staff members.

(e) Specific targets and strategies for restoring competency to include periodic assessments of gains on these targets.

(f) Participation of a multidisciplinary team that includes at a minimum:

(i) A physician, advanced registered nurse practitioner (ARNP), or physician assistant certified (PA-C);

(ii) A nurse, if the person in (f)(i) of this subsection is not an ARNP; and

(iii) A mental health professional.

(g) Participation of other multidisciplinary team members, which may include a psychologist and chemical dependency professional.

(h) All assessments and justification for the use of seclusion or restraint.

(4) The initial assessment must include:

(a) The individual's:

(i) Identifying information;

(ii) Specific barriers to competence;

(iii) Medical provider's name or medical providers' names;

(iv) Medical concerns;

(v) Medications currently taken;

(vi) Brief mental health history; and

(vii) Brief substance use history, including tobacco use.

(b) The identification of any risk of harm to self and others, including suicide and homicide; and

(c) Treatment recommendations or recommendations for additional program-specific assessment.

(5) To determine the nature of the disorder and the treatment necessary, the agency must ensure that the individual receives the following assessments and document in the client's record the date provided:

(a) A health assessment of the individual's physical condition to determine if the individual needs to be transferred to an appropriate hospital for treatment;

(b) An examination and medical evaluation within twenty-four hours by a physician, advanced registered nurse practitioner, or physician assistant;

(c) A psychosocial evaluation by a mental health professional; and

(d) A competency to stand trial evaluation conducted by a licensed psychologist, or a copy of a competency to stand trial evaluation using the most recent competency evaluation, if an evaluation has already been conducted.

(6) If a state hospital transfers an individual to an agency for competency restoration treatment, the agency must review the individual's completed admission assessment from the state hospital to assure it meets the requirements of subsection (3) of this section for initial assessments. The agency must update the assessment as needed. If the state hospital has not completed or has only partially completed an assessment for the individual, the agency must complete the assessment according to the requirements in subsections (2) and (3) of this section.

(7) The agency must ensure the individual service plan is completed within seven days of admission and is updated every ninety days.

NEW SECTION

WAC 246-341-1156 Mental health inpatient services—Competency evaluation and restoration—Rights.

(1) An agency providing competency evaluation and restoration treatment services must develop a statement of individual participant rights to ensure an individual's rights are protected. The statement must incorporate at a minimum all of the following. You have the right to:

(a) Receive services without regard to race, creed, national origin, religion, gender, sexual orientation, age or disability;

(b) Practice the religion of choice as long as the practice does not infringe on the rights and treatment of others or the treatment services and, as an individual participant, the right to refuse participation in any religious practice;

(c) Reasonable accommodation in case of sensory or physical disability, limited ability to communicate, limited English proficiency, or cultural differences;

(d) Respect, dignity and privacy, except that agency staff members may conduct reasonable searches to detect and prevent possession or use of contraband on the premises;

(e) Be free of sexual harassment;

(f) Be free of exploitation, including physical and financial exploitation;

(g) Have all clinical and personal information treated in accord with state and federal confidentiality rules and laws;

(h) Review your clinical record in the presence of the administrator or the administrator's designee and the opportunity to request amendments or corrections;

(i) Upon request, receive a copy of the agency's internal procedures for addressing reported concerns that may amount to a complaint or grievance; and

(j) Submit a report to the department when you believe the agency has violated a Washington Administrative Code (WAC) requirement that regulates facilities.

(2) Each agency must ensure the applicable individual participant rights described in subsection (1) of this section are:

(a) Provided in writing to each individual on or before admission;

(b) Posted in public areas;

(c) Available in alternative formats for an individual who is visually impaired;

(d) Translated to a primary or preferred language identified by an individual who does not speak English as the pri-

mary language, and who has a limited ability to read, speak, write, or understand English; and

(e) Available to any individual upon request.

(3) Each agency must ensure all research concerning an individual whose cost of care is publicly funded is done in accordance with chapter 388-04 WAC, the protection of human research subjects, and other applicable state and federal rules and laws.

(4) In addition to the requirements in this section, each agency enrolled as either a medicare or medicaid provider, or both, must ensure an individual seeking or participating in competency evaluation or restoration treatment services, or the person legally responsible for the individual is informed of the medicaid rights at time of admission in a manner that is understandable to the individual or legally responsible person.

NEW SECTION

WAC 246-341-1158 Mental health inpatient services—Competency evaluation and restoration—Seclusion and restraint.

(1) An individual receiving either competency evaluation or restoration treatment services, or both has the right to be free from seclusion and restraint, including chemical restraint except as otherwise provided in this section or otherwise provided by law. The agency must do all of the following:

(a) Develop, implement, and maintain policies and procedures to ensure that seclusion and restraint procedures are used only to the extent necessary to ensure the safety of an individual and in accordance with WAC 246-322-180 or 246-337-110, whichever is applicable.

(b) Ensure that the use of seclusion or restraint occurs only when there is imminent danger to self or others and less restrictive measures have been determined to be ineffective to protect the individual or other from harm and the reasons for the determination are clearly documented in the individual's clinical record.

(c) Ensure staff members notify and receive authorization by a physician, physician assistant (PA) or advanced registered nurse practitioner (ARNP) within one hour of initiating an individual's seclusion or restraint.

(d) Ensure the individual is informed of the reasons for use of seclusion or restraint and the specific behaviors which must be exhibited in order to gain release from a seclusion or restraint procedure.

(e) Ensure that an appropriate clinical staff member observes the individual at least every fifteen minutes and the observation is recorded in the individual's clinical record.

(f) If the use of seclusion or restraint exceeds twenty-four hours, ensure that a physician has assessed the individual and has written a new order if the intervention will be continued. This procedure must be repeated for each twenty-four hour period that seclusion or restraint is used.

(2) The agency must ensure all assessments and justification for the use of either seclusion or restraint, or both, are documented in the individual's clinical record.

WSR 19-04-044
PROPOSED RULES
BOARD OF ACCOUNTANCY
 [Filed January 29, 2019, 11:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-18-002.

Title of Rule and Other Identifying Information: WAC 4-30-062 How do I apply to take the CPA examination?

Hearing Location(s): On April 26, 2019, at 9:00 a.m., at the DoubleTree by Hilton, Seattle Airport, 18740 International Boulevard, Seattle, WA 98188.

Date of Intended Adoption: April 26, 2019.

Submit Written Comments to: Kirsten Donovan, Rules Coordinator, P.O. Box 9131, Olympia, WA 98507, email Kirsten.donovan@acb.wa.gov, fax 360-664-9190, by April 24, 2019.

Assistance for Persons with Disabilities: Contact Kirsten Donovan, rules coordinator, phone 360-664-9191, fax 360-664-9190, TTY 771, email Kirsten.donovan@acb.wa.gov, by April 24, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of accountancy (ACB) proposes amending WAC 4-30-062 to (1) rename the rule; and (2) ACB works with its partner organizations including the National Association of State Boards of Accountancy and the American Institute of Certified Public Accountants to administer the certified public accountant (CPA) examination. The intent of this rule change is to accommodate the development of a continuously available examination process. Continuous testing will provide more flexibility and convenience for those individuals who seek licensure as CPAs in the state of Washington.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.055.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: ACB, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Charles E. Satterlund, CPA, 711 Capitol Way South, Suite 400, Olympia, WA 98501, 360-586-0785.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. ACB is not a listed agency in RCW 34.05.328 (5)(a)(i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted

or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

January 29, 2019
 Charles E. Satterlund, CPA
 Executive Director

AMENDATORY SECTION (Amending WSR 18-21-034, filed 10/8/18, effective 11/8/18)

WAC 4-30-062 ((How do I apply)) Applying to take the CPA examination(?) (1) **Application process and due dates:** Your application to take the CPA examination must be submitted to the board's examination administrator. Applicants must submit all required information, documents, and fees to complete their application within sixty days of the date their application is submitted to the board's examination administrator. Your application is not considered complete until all of the following are provided:

- Complete application information and requested documents;

- Fee(s).

(2) **Fee refund and forfeiture:** Upon submission of your application to the examination administrator, no portion of the board's administrative fee is refundable. Upon the examination administrator's authorization to test, no portion of the total exam fee (both administrative fee and section fee(s)) is refundable. If you fail to meet the board's scheduling or admission requirements, you forfeit all of the exam fee(s) and you must reapply to take the section(s) of the exam.

(3) **Notice of admittance to the examination or denial of your application:** You must contact the approved test provider to schedule the time and location for your examination. The notice of eligibility to take the examination is called a Notice to Schedule (NTS), the NTS will be valid for one taking of the examination within the six months following the date of the NTS.

Notice of a denial of your application, or notice of your eligibility to take the examination will be sent to you by the examination administrator.

(4) **Examination content and grading:** The CPA examination shall test the knowledge and skills required for performance as an entry-level certified public accountant. The examination shall include the subject areas of accounting and auditing and related knowledge and skills as the board may require. The examination will consist of the following four sections: Auditing and attestation; financial, accounting and reporting; regulation; and business environment and concepts. The board may accept the advisory grading services of the American Institute of Certified Public Accountants.

(5) **Examination process:**

(a) **Conditions for examinations held prior to January 1, 2004:** Contact a customer service representative at customerservice@acb.wa.gov or by phone at 360-753-2586.

(b) **For examinations taken after December 31, 2003:** The board uses all parts of the uniform CPA examination and

the advisory grading services of the American Institute of Certified Public Accountants.

(i) To satisfy the examination requirement for a license you must have achieved a score of seventy-five on all four sections of the examination within a rolling eighteen-month period.

(ii) You may take the required four sections individually and in any order. Credit for any section(s) taken and passed after December 31, 2003, will be valid for eighteen months from the actual date you successfully passed any particular section of the examination.

(iii) You must pass all four sections of the examination within a rolling eighteen-month period, which begins on the date that the first section(s) is passed. A section is considered passed on the date that you took the exam section and not the date that your grade is released.

(iv) You may not retake a failed section(s) in the same examination window. An examination window refers to a three-month period in which candidates have an opportunity to take the examination (comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the examination is refreshed).

(v) If the board determines that the examination system changes necessary to eliminate the test window limitations have been implemented, (iv) of this subsection will no longer be effective, and a candidate can retake a test section once their grade for any previous attempt of that same section has been released.

(vi) In the event you do not pass all four sections of the examination within the rolling eighteen-month period, credit for any section(s) passed prior to the eighteen-month period will expire and you must retake any expired section.

WSR 19-04-045
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
 (By the Code Reviser's Office)
 [Filed January 29, 2019, 1:20 p.m.]

WAC 246-817-912, proposed by the department of health in WSR 18-15-056, appearing in issue 18-15 of the Washington State Register, which was distributed on August 1, 2018, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 19-04-046
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (By the Code Reviser's Office)
 [Filed January 29, 2019, 1:24 p.m.]

WAC 208-620-240, proposed by the department of financial institutions in WSR 18-15-077, appearing in issue 18-15 of the Washington State Register, which was distributed on August 1, 2018, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 19-04-072
PROPOSED RULES
HEALTH CARE AUTHORITY
 [Filed February 1, 2019, 1:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-01-077.

Title of Rule and Other Identifying Information: WAC 182-517-0100 Federal medicare savings program.

Hearing Location(s): On March 12, 2019, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Conference Room 106B, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than March 13, 2019.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by March 12, 2019.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, TTY 800-848-5429 or 711, email amber.lougheed@hca.wa.gov, by March 8, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending this rule to create a second eligibility methodology based on household size for the qualified medicare beneficiary (QMB) program. This second eligibility method compares countable income to the federal poverty level based on family size, and the agency uses the eligibility methodology that provides clients with the highest level of coverage under the QMB program. If neither eligibility determination results in QMB coverage, the agency uses both methodology processes to determine if the client is eligible under any other medicare savings program.

Reasons Supporting Proposal: The new methodology in effect increases the income limit and will allow more households to become eligible for this benefit.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1408; Implementation and Enforcement: Mark Westenhaber, P.O. Box 45534, Olympia, WA 98504-5534, 360-725-1324.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose any costs on businesses.

February 1, 2019
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-13-157, filed 6/22/16, effective 7/23/16)

WAC 182-517-0100 Federal medicare savings programs. (1) Available programs. The medicaid agency offers eligible clients the following medicare savings programs (MSPs):

- (a) The qualified medicare beneficiary (QMB) program;
- (b) The specified low-income medicare beneficiary (SLMB) program;
- (c) The qualified individual (QI-1) program; and
- (d) The qualified disabled and working individuals (QDWI) program.

(2) Eligibility requirements.

(a) To be eligible for an MSP, a ~~((person))~~ client must:

- (i) Be entitled to medicare Part A; and
- (ii) ~~((Be a U.S. citizen, U.S. national, qualified American Indian born abroad, or a qualified alien who satisfies or is exempt from the five year bar under WAC 182-503-0535;~~

~~((iii) Not exceed the income limits in (d) of this subsection; and~~

~~((iv) Not exceed the resource limits in (e) of this subsection.)) Meet the general eligibility requirements under WAC 182-503-0505.~~

(b) To be eligible for QDWI, a ~~((person))~~ client must be under age sixty-five.

(c) ~~((Except as provided under (d) and (e) of this subsection, MSPs follow the income, resource, and deeming rules for SSI-related persons in chapter 182-512 WAC.~~

~~((d))~~ Income and resource limits.

(i) Income limits for all MSPs are found at <https://www.hca.wa.gov/health-care-services-and-supports/program-administration/program-standard-income-and-resources>.

~~((ii))~~ If a ~~((person's))~~ client's countable income is less than or equal to one hundred percent of the federal poverty level (FPL), the ~~((person may qualify))~~ client is income eligible for the QMB program.

~~((iii))~~ (iii) If a ~~((person's))~~ client's countable income is over one hundred percent of the FPL, but does not exceed one hundred twenty percent of the FPL, the ~~((person may qualify))~~ client is income eligible for the SLMB program.

~~((iii))~~ (iv) If a ~~((person's))~~ client's countable income is over one hundred twenty percent of the FPL, but does not exceed one hundred thirty-five percent of the FPL, the ~~((person may qualify))~~ client is income eligible for the QI-1 program.

~~((iv))~~ (v) If a ~~((person's))~~ client's countable income is over one hundred thirty-five percent of the FPL, but does not exceed two hundred percent of the FPL, the ~~((person may qualify))~~ client is income eligible for the QDWI program if the client is employed and meets disability requirements described in WAC 182-512-0050.

~~((e))~~ (vi) Resource limits.

~~((f))~~ (A) The resource limit for the QMB, SLMB, and QI-1 programs ~~((may be found at <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>~~

~~((g))~~ are found at <https://www.hca.wa.gov/health-care-services-and-supports/program-standard-income-and-resources>.

(B) The resource limit for the QDWI program is \$4,000 for a single person and \$6,000 for a married couple.

~~((h))~~ (3) MSP income eligibility determinations.

(a) The agency has two methods for determining if a client is eligible for an MSP:

(i) The agency first determines if the client is eligible based on SSI-rated methodologies under chapter 182-512 WAC. Under this method, the agency calculates the household's net countable income and compares the result to the one-person standard. However, if the spouse's income is deemed to the client, or if both spouses are applying, the household's net countable income is compared to the two-person standard.

(ii) If the client is not eligible under the methodology described in (a)(i) of this subsection, the agency compares the same countable income, as determined under (a)(i) of this subsection, to the appropriate FPL standard based on family size. The number of individuals that count for family size include:

(A) The client;

(B) The client's spouse who lives with the client;

(C) The client's dependents who live with the client;

(D) The spouse's dependents who live with the spouse, if the spouse lives with the client; and

(E) Any unborn children of the client, or of the spouse if the spouse lives with the client.

(b) Under both eligibility determinations, the agency follows the rules for SSI-related people under chapter 182-512 WAC for determining:

(i) Countable income and resources;

(ii) Availability of income and resources;

(iii) Allowable income deductions and exclusions; and

(iv) Deemed income from and allocated income to a non-applying spouse and dependents.

(c) The agency uses the eligibility determination that provides the client with the highest level of coverage.

(i) If the MSP applicant is eligible for QMB coverage under (a)(i) of this subsection, the agency approves the coverage.

(ii) If the MSP applicant is not eligible for QMB coverage, the agency determines if the applicant is eligible under (a)(ii) of this subsection.

(iii) If neither eligibility determination results in QMB coverage, the agency uses the same process to determine if the client is eligible under any other MSP.

(d) When calculating income under this section:

(i) The agency subtracts client participation from a long-term care client's countable income under WAC 182-513-1380, 182-515-1509, or 182-515-1514.

(ii) The agency counts the annual Social Security cost-of-living increase beginning April 1st each year.

~~((g) Relationship of MSPs to other medicaid programs:~~

~~(i) A client eligible for another medicaid program may also receive QMB or SLMB coverage.~~

~~(ii) A client eligible for another medicaid program is not eligible for QI-1 or QDWI.~~

~~(3)) (4) Covered costs.~~

(a) The QMB program pays:

(i) Medicare Part A and Part B premiums using the start date in WAC 182-504-0025; and

(ii) Medicare coinsurance, copayments, and deductibles for Part A, Part B, and ~~((medicare advantage))~~ Part C, subject to the limitations in WAC 182-502-0110.

(b) If the client is eligible for both SLMB and another medicaid program:

(i) The SLMB program pays the Part B premiums using the start date in WAC 182-504-0025; and

(ii) The medicaid program pays medicare coinsurance, copayments, and deductibles for Part A, Part B, and ~~((medicare advantage))~~ Part C subject to the limitations in WAC 182-502-0110.

(c) If the client is only eligible for SLMB, the SLMB program covers medicare Part B premiums using the start date in WAC 182-504-0025.

(d) The QI-1 program pays medicare Part B premiums using the start date in WAC 182-504-0025 until the agency's federal funding allotment is spent. The agency resumes QI-1 benefit payments the beginning of the next calendar year.

(e) The QDWI program covers medicare Part A premiums using the start date in WAC 182-504-0025.

~~((4)) (5) MSP eligibility.~~ Medicaid eligibility may affect MSP eligibility:

(a) QMB and SLMB clients may receive medicaid and still be eligible to receive QMB or SLMB benefits.

(b) QI-1 and QDWI clients who begin receiving medicaid are no longer eligible for QI-1 or QDWI benefits, but may be eligible for the state-funded medicare buy-in program under WAC 182-517-0300.

~~((5) The FPL standards are found at: <http://www.he.wa.gov/medicaid/eligibility/pages/standards.aspx>.)~~

(6) Right to request administrative hearing. A person who disagrees with agency action under this section may request an administrative hearing under chapter 182-526 WAC.

WSR 19-04-073

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed February 1, 2019, 2:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-11-097.

Title of Rule and Other Identifying Information: Chapter 180-17 WAC, Accountability, amendment or repeal of state board of education (SBE) rules in chapter 180-17 WAC pursuant to collaboration on required action districts between SBE and the office of superintendent of public instruction (OSPI).

Hearing Location(s): On March 13, 2019, at 4:30 p.m., at South Puget Sound Community College, Lacey Campus, Room 194, 4220 6th Avenue S.E., Lacey, WA 98503. OSPI will also hold a hearing at this location on OSPI's rules related to required action districts.

Date of Intended Adoption: March 14, 2019.

Submit Written Comments to: Parker Teed, 600 Washington Street S.E., Olympia, WA 98504, email parker.teed@k12.wa.us, fax 360-586-2357, by March 13, 2019.

Assistance for Persons with Disabilities: Contact Parker Teed, phone 360-725-6047, fax 360-586-2357, TTY 360-664-3631, email parker.teed@k12.wa.us, by March 13, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

- Updated the language to be consistent with the current state and federal accountability framework.
- Removed most specific review dates from current rule that do not line up with the board meeting schedule and create an overly rigid structure. The specified dates that remain are those determined in statute. The statute also includes specific review timelines that are included in the draft rule.
- Removed outdated school improvement grant references.
- Added definitions section (referencing other WAC sections where appropriate).

Reasons Supporting Proposal: SBE has determined that current rule in chapter 180-17 WAC prevents SBE and OSPI from making changes to improve the required action process. SBE and OSPI are engaged in a collaborative effort to improve the required action process and these rule changes will reflect the outcomes of that collaboration. The purposes are to repeal obsolete rules, amend or repeal rules inconsistent with board policy, update rules to be compatible with new circumstances and policy issues, and make necessary technical corrections.

Statutory Authority for Adoption: RCW 28A.657.120.

Statute Being Implemented: Chapter 28A.657 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: SBE, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Randy Spaulding, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6024.

A school district fiscal impact statement has been prepared RCW 28A.305.135.

SCHOOL DISTRICT FISCAL IMPACT STATEMENT

WSR:	Title of Rule: Required Action Districts.	Agency: SDF - School District Fiscal Impact - SPI.
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Part I: Estimates: No fiscal impact, the proposed rule change will have no fiscal impact on school districts.

Estimated Cash Receipts to: No estimated cash receipts.

Estimated Expenditures From: No estimated expenditures.

Estimated Capital Impact: No estimated capital impact.

Part II: Narrative Explanation:

II. A - Brief Description of What the Measure Does That Has Fiscal Impact: *Briefly describe by section, the significant provisions of the rule, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

None.

II. B - Cash Receipts Impact: *Briefly describe and quantify the cash receipts impact of the rule on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None.

II. C - Expenditures: *Briefly describe the agency expenditures necessary to implement this rule (or savings resulting from this rule), identifying by section number the provisions of the rule that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

None.

Part III: Expenditure Detail:

III. A - Expenditures by Object or Purpose: None.

Part IV: Capital Budget Impact: None.

A copy of the statement may be obtained by contacting Mr. Thomas J. Kelly, 600 Washington Street S.E., Olympia, WA 98504.

A cost-benefit analysis is not required under RCW 34.05.328. These rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make

address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: The proposed changes to chapter 180-17 WAC applies to internal government operations and corrects or clarifies language. The education policy issues that are addressed in this rule making are not related to small businesses.

January 23, 2019
Randy Spaulding
Executive Director

NEW SECTION

WAC 180-17-005 Definitions. In addition to the definitions outlined in WAC 392-501-715 the following definitions apply to this chapter:

(1) "School and school district improvement plans" means the data-driven plan for the district and each school described and required under WAC 180-16-220 that promotes a positive impact on student learning and includes a continuous improvement process.

(2) "Federal requirements" means the accountability and other requirements specified by the U.S. Department of Education in the Elementary and Secondary Education Act of 1965, as amended.

(3) "Washington school improvement framework" or "WSIF" means the system of school differentiation described in the Washington accountability plan approved by the U.S. Department of Education as meeting federal requirements. The framework methodology establishes a summative score for the all students group and the reportable student groups specified in WAC 180-105-020 (1)(b) from up to five indicators broadly categorized as academic achievement, student academic growth, English learner progress, high school graduation, and school quality or student success.

AMENDATORY SECTION (Amending WSR 15-21-019, filed 10/12/15, effective 11/12/15)

WAC 180-17-010 Designation of required action districts. Upon receipt of the recommendation from the office of the superintendent of public instruction to designate school districts for required action, in ~~((January))~~ March, or another time mutually agreed upon by the superintendent of public instruction and the state board of education, of each year the state board of education shall designate such districts as required action districts.

AMENDATORY SECTION (Amending WSR 10-23-083, filed 11/16/10, effective 12/17/10)

WAC 180-17-020 Process for submittal and approval of required action plan. (1) Except as otherwise provided in WAC 180-17-030, ~~((school districts designated as required action districts by the state board of education shall develop a required action plan))~~ the school and school district improvement plans required under WAC 180-16-220 shall be amended to ensure all the requirements listed in RCW 28A.-657.050(2) are met according to the following schedule: ((~~By April 15th of the year in which the district is designated,~~))

Within forty calendar days of designation by the state board of education a school district shall submit (a required action plan to the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines for the receipt of a School Improvement Grant. The required action plan must comply with all of the requirements set forth in RCW 28A.657.050.

(b) By May 1st of the year in which the district is designated, a school district shall submit a required action plan) amended school and school district improvement plans approved by the superintendent of public instruction to the state board of education for approval.

(2) At the next regularly scheduled meeting, or at a special board meeting if no meeting is scheduled within a reasonable time, the state board of education shall(, by May 15th of each year,) either:

(a) Approve the school district's required action plan; or
(b) Notify the school district that the required action plan has not been approved stating the reasons for the disapproval.

(3) A school district notified by the state board of education that its required action plan has not been approved under subsection (2)(a) of this section shall either:

(a) Submit a new required action plan to the superintendent of public instruction and state board of education for review and approval within forty calendar days of notification that its plan was rejected. The state board of education shall approve the ((school district's required action plan by no later than July 15th)) plan at its next regularly scheduled meeting, or at a special board meeting if it meets all of the requirements set forth in RCW 28A.657.050; or

(b) Submit a request to the required action plan review panel established under RCW 28A.657.070 for reconsideration of the state board's rejection within ten calendar days of the notification that the plan was rejected. The review panel shall consider and issue a ((decision)) recommendation regarding a district's request for reconsideration to the state board of education ((by no later than June 10th)) within forty calendar days. The state board of education shall consider the recommendations of the panel at its next regularly scheduled meeting, or at a special board meeting, and issue a decision in writing to the school district and the panel ((by no later than June 20th)). If the state board of education accepts the changes to the required action plan recommended by the panel, the school district shall submit a revised required action plan to the superintendent of public instruction and state board of education ((by July 30th)) within forty calendar days. The state board of education shall approve the plan by no later than ((August 10th)) at its next regularly scheduled meeting or a special board meeting if it incorporates the recommended changes of the panel.

(4) If the review panel issues a decision that reaffirms the decision of the state board of education rejecting the school district's required action plan, then the school district shall submit a revised plan to the superintendent of public instruction and state board of education within ((twenty)) forty calendar days of the panel's decision. The state board of education shall approve the district's required action plan ((by no later than July 15th)) at its next regularly scheduled meeting, or special board meeting if it meets all of the requirements set forth in RCW 28A.657.050.

AMENDATORY SECTION (Amending WSR 10-23-083, filed 11/16/10, effective 12/17/10)

WAC 180-17-030 Process for submittal and approval of a required action plan when mediation or superior court review is involved. (1) ((By April 1st of the year in which)) A school district that is designated for required action((, #)) shall notify the superintendent of public instruction and the state board of education ((that)) within ten calendar days if it is pursuing mediation with the public employment relations commission in an effort to agree to changes to terms and conditions of employment to a collective bargaining agreement that are necessary to implement a required action plan. ((Mediation with the public employment relations commission must commence no later than April 15th.))

(2) If the parties are able to reach agreement in mediation, the ((following timeline shall apply:

(a) A) school district shall submit its required action plan according to the ((following)) schedule((:

(i) By June 1st, the school district shall submit its required action plan to the superintendent of public instruction for review and approval as consistent with federal guidelines for the receipt of a School Improvement Grant.

(ii) By June 10th, the school district shall submit its required action plan to the state board of education for approval.

(b) The state board of education shall, by June 15th of each year, approve a plan proposed by a school district only if the plan meets the requirements in RCW 28A.657.050 and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement) outlined in WAC 180-17-020.

(3) If the parties are unable to reach an agreement in mediation, the school district shall file a petition with the superior court for a review of any disputed issues under the timeline prescribed in RCW 28A.657.050. After receipt of the superior court's decision, ((the following timeline shall apply:

(a) A school district shall submit its revised required action plan according to the following schedule:

(i) By June 30th, the school district shall submit its revised required action plan to the superintendent of public instruction for review and approval as consistent with federal guidelines for the receipt of a School Improvement Grant.

(ii) By July 7th, the school district shall submit its revised required action plan to the state board of education for approval.

(b) The state board of education shall, by July 15th of each year, approve a plan proposed by a school district only if the plan meets the requirements in RCW 28A.657.050 and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement) according to the schedule outlined in WAC 180-17-020.

AMENDATORY SECTION (Amending WSR 10-23-083, filed 11/16/10, effective 12/17/10)

WAC 180-17-040 Failure to submit or receive approval of a required action plan. The state board of education ((shall direct)) may recommend the superintendent of

public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan by the beginning of the school year in which the plan is intended to be implemented, to redirect the district's Title I funds based on the academic performance audit findings.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

WAC 180-17-050 Release of a school district from designation as a required action district. (1) The state board of education shall release a school district from designation as a required action district upon recommendation by the superintendent of public instruction, and confirmation by the board, that the district has met the requirements for release set forth in RCW 28A.657.100.

(2) If the board determines that the required action district has not met the requirements for a release in RCW 28A.657.100, the state board of education may determine that the district remain a Level I required action district and submit a new or revised required action plan under the process and timeline prescribed in WAC 180-17-020, or to the extent applicable in WAC 180-17-030, or ~~((#))~~ following review by the education accountability system oversight committee authorized under RCW 28A.657.130, the board may assign the district to Level II status, according to the requirements of WAC 180-17-060. The oversight committee will have thirty calendar days to review and comment on the findings prior to a board determination.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

WAC 180-17-060 Designation of required action district to Level II status. (1) For required action districts which have not demonstrated recent and significant progress toward the requirements for release under RCW 28A.657.100, the state board of education may direct that the district be assigned to Level II status of the required action process.

(2) ~~((For the purposes of this section, recent and significant progress shall be defined as progress occurring within the two most recently completed school years, which is determined by the board to be substantial enough to put the school on track to exit the list of persistently lowest-achieving schools list, as defined in RCW 28A.657.020, if the rate of progress is sustained for an additional three school years.))~~ Schools meeting their ~~((annual measurable objectives (AMOs)))~~ performance improvement goals, as required under WAC 180-105-020, for the all students group for two consecutive years, ~~((as established by the office of the superintendent of public instruction,))~~ may also be deemed to have made recent and significant progress under this section. At the discretion of the state board of education, adjustments may be made to account for changes in standards or assessments, as well as fluctuation in the exit criteria over time due to a normative definition of "persistently lowest-achieving schools" ~~((established in RCW 28A.657.020.~~

(3) ~~If the required action district received a federal School Improvement Grant for the same persistently lowest-~~

~~achieving school in 2010 or 2011, the superintendent may recommend that the district be assigned to Level II of the required action process after one year of implementing a required action plan under this chapter if the district is not making progress.~~

~~(4))~~ as defined in WAC 392-501-720.

(3) Districts assigned by the state board of education as required action districts must be evaluated for exit under the same criteria used for their original designation into required action status; except, the board may, at its discretion, exit a district if subsequent changes in the exit criteria make them eligible for exit.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

WAC 180-17-070 Level II needs assessment and revised required action plan requirements. (1) Upon assignment of a school district to Level II required action district status, the state board shall notify the superintendent of public instruction who shall direct that a Level II needs assessment and review be conducted to determine the reasons why the previous required action plan did not succeed in improving student achievement. The superintendent of public instruction shall contract with an external review team to conduct a needs assessment and review. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from agency, the school district that is the subject of the assessment, or members of the staff of the state board of education. The needs assessment shall be completed within ninety calendar days of the Level II designation and presented to the board at its next regularly scheduled meeting or a special board meeting.

(2) The needs assessment and review shall include an evaluation of the extent to which the instructional and administrative practices of the school materially changed in response to the original Level I needs assessment and the periodic reviews conducted by the office of the superintendent of public instruction, during Phase I required action. The needs assessment and review may consider both school and community factors which may include, but are not limited to, class size, resources and building capacity, recent bond or levy failures, kindergarten readiness, student mobility, poverty, student homelessness, rate of parental unemployment, and other factors contributing to the opportunity gap.

(3) Based on the results of the Level II needs assessment and review, the superintendent of public instruction shall work collaboratively with the school district board of directors to develop a revised required action plan for Level II. The school district board of directors shall seek public comment on the proposed Level II required action plan prior to submitting the plan to the state board of education for approval.

(4) The Level II required action plan shall include the following components:

(a) A list of the primary reasons why the previous plan did not succeed in improving student achievement.

(b) A list of the conditions which will be binding on the district in the Level II plan. These may include:

(i) Assignment of on-site school improvement specialists or other personnel by the superintendent of public instruction;

(ii) Targeted technical assistance to be provided through an educational service district or other provider;

(iii) Assignment or reassignment of personnel;

(iv) Reallocation of resources, which may include redirection of budgeted funds or personnel, as well as changes in use of instructional and professional development time;

(v) Changes to curriculum or instructional strategies;

(vi) Use of a specified school improvement model; or

(vii) Other conditions which the superintendent of public instruction determines to be necessary to ensure that the revised action plan will be implemented with fidelity and will result in improved student achievement.

(5) The plan shall be submitted to the state board of education for approval prior to ~~((May 30th of the year preceding implementation))~~ the start of the school year in which implementation will take place, with a cover letter bearing the signatures of the superintendent of public instruction and the chair of the board of directors of the required action district, affirming mutual agreement to the plan.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

WAC 180-17-080 Level II required action plan—Procedures for direct submission to state board of education by superintendent of public instruction~~((—))~~ and role of required action plan review panel. (1) If the superintendent of public instruction and the school district board of directors are unable to come to an agreement on a Level II required action plan within ninety calendar days of the completion of the needs assessment and review conducted under subsection (2) of this section, the superintendent of public instruction shall complete and submit a Level II required action plan directly to the state board of education for approval. Such submissions must be presented and approved by the board prior ~~((to July 15th of the year preceding))~~ start of the school year of implementation.

(2) The school district board of directors may submit a request to the required action plan review panel for reconsideration of the superintendent's Level II required action plan within ten calendar days of the submission of the plan to the state board of education. The state board of education will delay decision on the Level II required action plan for twenty calendar days from the date of the request, in order to receive any recommendations and comment provided by the review panel, which shall be convened expeditiously by the superintendent of public instruction as required, pursuant to RCW 28A.657.070 (2)(c). After the state board of education considers the recommendations of the required action review panel, the decision of the board regarding the Level II required action plan is final and not subject to further reconsideration. The board's decision must be made by public vote, with an opportunity for public comment provided at the same meeting.

(3) If changes to a collective bargaining agreement are necessary to implement a Level II required action plan, the procedures prescribed under RCW 28A.657.050 shall apply. A designee of the superintendent shall participate in the discussions among the parties to the collective bargaining agreement.

(4) In Level II required action, the superintendent of public instruction shall work collaboratively with the local board of education. However, if the superintendent of public instruction finds that the Level II required action plan is not being implemented as specified, including the implementation of any binding conditions within the plan, the superintendent may direct actions that must be taken by school district personnel and the board of directors to implement the Level II required action plan. If necessary, the superintendent of public instruction may exercise authority under RCW 28A.505.120 regarding allocation of funds.

(5) If the superintendent of public instruction seeks to make material changes to the Level II required action plan at any time, those changes must be submitted to the state board of education for approval at a public meeting where an opportunity for public comment is provided.

AMENDATORY SECTION (Amending WSR 14-11-062, filed 5/18/14, effective 6/18/14)

WAC 180-17-100 Establishment of accountability framework to improve student achievement for all children. (1) Pursuant to the requirements of RCW 28A.657.110 (chapter 159, Laws of 2013), the state board of education adopts the following guiding principles in fulfillment of its responsibility to establish an accountability framework. The framework establishes the guiding principles for a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The statutory purpose of the accountability framework is to provide guidance to the superintendent of public instruction in the design of a comprehensive system of specific strategies for recognition, provision of differentiated support and targeted assistance and, if necessary, intervention in underperforming schools and school districts, as defined under RCW 28A.657.020.

(3) The board finds that the accountability system design and implementation should reflect the following principles and priorities:

(a) Student growth is an essential element in an effective school accountability system. However, inclusion of student growth shall not come at the expense of a commitment to and priority to get all students to academic standard. Washington's accountability system should work toward incorporating metrics of growth adequacy, which measure how much growth is necessary to bring students and schools to academic standard within a specified period of time. An objective standard of career and college-readiness for all students should remain the long-term focus of the system.

(b) The board recognizes that the transition to ~~((common core state standards creates))~~ a new accountability system created practical challenges for shorter term goal-setting, as a new baseline of student performance is established on a

series of more rigorous standards and assessments. Normative measures of accountability are a transitional strategy during periods of significant change. Long-term, however, the accountability framework shall establish objective standards for index performance tiers and exit criteria for required action status. The board does not support a permanent system of moving, normative performance targets for our schools and students. The long-term goal remains gradually reduced numbers of schools in the bottom ~~((tiers of the index))~~ deciles of the Washington school improvement framework.

(c) To the greatest extent allowable by federal regulations, the federal accountability requirements for Title I schools should be treated as an integrated aspect of the overall state system of accountability and improvement applying to all schools. The ~~((composite achievement index score))~~ Washington school improvement framework should be used as the standard measure of school achievement, and should be directly aligned with designations of challenged schools in need of improvement made annually by the superintendent of public instruction, and the lists of persistently low-achieving schools as required under federal regulations.

(d) The integration of state and federal accountability policies should also be reflected in program administration. To the greatest extent allowed by federal regulation, state and federal improvement planning should be streamlined administratively through a centralized planning tool. Improvement and compliance plans required across various state programs and federal title programs should be similarly integrated to the extent allowable. Planning will become less burdensome and more meaningful when the linkages between programs become more apparent in the way they are administered.

~~(e) ((The state's graduation requirements should ultimately be aligned to the performance levels associated with career and college readiness. During implementation of these standards, the board recognizes the necessity of a minimum proficiency standard for graduation that reflects a standard approaching full mastery, as both students and educators adapt to the increased rigor of common core and the underlying standard of career and college readiness for all students.~~

~~((f))~~ In the education accountability framework, goal-setting should be a reciprocal process and responsibility of the legislature, state agencies, and local districts and schools. The state education system should set clearly articulated performance goals for itself in a manner consistent with the planning requirements established for school districts and schools. State goal-setting should be grounded in what is practically achievable in the short-term and aspirational in the long-term, and should reflect realistic assumptions about the level of resources needed, and the time necessary, for implementation of reforms to achieve the desired system outcomes.

~~((g) While the board supports the use of school improvement models beyond those identified by the federal Department of Education under the No Child Left Behind Act, the board will uphold a standard of rigor in review of these plans to ensure that authentic change occurs in instructional and leadership practices as a result of required action plan implementation. Rigorous school improvement models should not be overly accommodating of existing policies and~~

~~practices in struggling schools, and summative evaluations should be able to document verifiable change in practice.~~

~~((h))~~ ~~((f))~~ Recognition of school success is an important part of an effective accountability framework. The board is committed to an annual process of school recognition, and believes that award-winning schools can make significant contributions to the success of the system by highlighting replicable best practices. All levels of success should be celebrated, including identifying improvement in low-performing schools, and highlighting examples of good schools that later achieve exemplary status.

~~((i))~~ ~~((g))~~ Fostering quality teaching and learning is the ultimate barometer of success for a system of school accountability and support. The central challenge for the superintendent of public instruction is developing delivery systems to provide the needed resources and technical assistance to schools in need, whether they be rural or urban, homogenous or diverse, affluent or economically challenged. In instances where traditional approaches have failed, the system will need to be prepared to develop innovative ways to secure the right instructional and leadership supports for districts and schools that need them.

WSR 19-04-080

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed February 4, 2019, 7:56 a.m.]

Continuance of WSR 18-20-016.

Preproposal statement of inquiry was filed as WSR 18-11-069.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-78A-3180 Required enforcement, and creates new WAC 388-78A-3181 Remedies—Specific—Civil penalties and 388-78A-3183 Remedies—Civil fine grid.

Hearing Location(s): On March 12, 2019, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than March 13, 2019.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by March 12, 2019, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by February 26, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is filing this CR-102 notice of proposed rule making as a continuance to the notice filed as WSR 18-20-016 on September

21, 2018, in order to hold a second public hearing and comment period to ensure public notification of the civil penalty changes related to legislative mandates.

The department is amending and creating these rules as required by state law and to assure compliance with requirements of HB [EHB] 2750 (chapter 173, Laws of 2018) passed by the 2018 legislature. HB [EHB] 2750 requires a "tiered sanction grid that considers the extent of harm from the deficiency and the regularity of the occurrence of the deficiency when imposing civil fines." In addition, it requires that "all receipts from civil penalties imposed under this chapter must be deposited in the assisted living facility temporary management account created in RCW 18.20.430." This will require changes to the existing section and creation of the enforcement sections listed above.

Reasons Supporting Proposal: To meet the legislative requirement established under HB [EHB] 2750 passed by the 2018 legislature.

Statutory Authority for Adoption: Chapter 18.20 RCW.

Statute Being Implemented: Chapter 173, Laws of 2018.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jeanette K. Childress, P.O. Box 45600, Olympia, WA 98504, 360-725-2591.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jeanette K. Childress, P.O. Box 45600, Olympia, WA 98504, phone 360-725-2591, fax 360-407-1976, email childjk@dshs.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

January 31, 2019
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-05-035, filed 2/12/14, effective 3/15/14)

WAC 388-78A-3180 ((Required enforcement)) Remedies—Imposition of remedies. The department must impose ((an appropriate)) a remedy ((consistent with RCW 18.20.125 and as otherwise authorized by RCW 18.20.185 or 18.20.190 whenever the department finds an assisted living facility has)) or remedies listed in WAC 388-78A-3181 when violations of chapter 18.20 RCW, chapter 70.129 RCW, and chapter 74.34 RCW, and this chapter are:

(1) ((A serious problem, a recurring problem, or an uncorrected problem)) Repeated;

(2) ((Created a hazard that causes or is likely to cause death or serious harm to one or more residents)) Uncorrected;

(3) ((Discriminated or retaliated in any manner against a resident, employee, or any other person because that person or any other person made a complaint or provided informa-

tion to the department, the attorney general, a law enforcement agency, or the long-term care ombuds)) Pervasive; or

(4) ((Willfully interfered with the performance of official duties by a long-term care ombuds)) Present a threat to the health, safety, or welfare of one or more residents.

NEW SECTION

WAC 388-78A-3181 Remedies—Specific—Civil penalties. (1) The department may impose civil penalties of at least one hundred dollars per day per violation.

(2) Fines up to one thousand dollars per day per violation may be issued under RCW 18.20.190 until July 1, 2019, and thereafter as follows:

(a) Beginning July 1, 2019, through June 30, 2020, the civil penalties may not exceed two thousand dollars per day per violation; and

(b) Beginning July 1, 2020, the civil penalties may not exceed three thousand dollars per day per violation.

(3) Fines up to three thousand dollars may be issued under RCW 18.20.185 for willful interference with a representative of the long-term care ombuds.

(4) Fines up to three thousand dollars may be issued under RCW 74.39A.060 for retaliation against a resident, employee, or any other person making a complaint, providing information to, or cooperating with, the ombuds, the department, the attorney's general office, or a law enforcement agency.

(5) Fines up to ten thousand dollars may be issued under RCW 18.20.190 for a current or former licensed provider who is operating an unlicensed home.

(6) When the assisted living facility fails to pay a fine under this chapter when due, the department may, in addition to other remedies, withhold an amount equal to the fine plus interest, if any, from any contract payment due to the provider from the department.

(7) Civil monetary penalties are due twenty-eight days after the assisted living facility or the owner or operator of an unlicensed assisted living facility is served with notice of the penalty unless the assisted living facility requests a hearing in compliance with chapter 34.05 RCW, RCW 43.20A.215, and this chapter. If the hearing is requested, the penalty becomes due ten days after a final decision affirming the assessed civil penalty. Thirty days after the department serves the assisted living facility with notice of the penalty, interest begins to

(8) All receipts from civil penalties imposed under this chapter must be deposited in the assisted living facility temporary management account created in RCW 18.20.430.

NEW SECTION

WAC 388-78A-3183 Remedies—Civil fine grid. Effective October 26, 2018, the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal or Moderate Harm		Serious Harm		Imminent Danger, Immediate Threat, or Both
Repeat/ Uncorrected	Initial	Repeat/ Uncorrected	Initial	Repeat/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to two hundred and fifty dollars per violation per day.	Civil fine up to five hundred dollars per violation per day.	Civil fine up to seven hundred and fifty dollars per violation per day.	Civil fine up to one thousand dollars per violation per day.	Civil fine of one thousand dollars per violation per day.

Beginning July 1, 2019, the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal or Moderate Harm		Serious Harm		Imminent Danger, Immediate Threat, or Both
Repeat/ Uncorrected	Initial	Repeat/ Uncorrected	Initial	Repeat/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to two hundred and fifty dollars per violation or a daily civil fine of at least one hundred and twenty-five dollars per day.	Civil fine up to five hundred dollars per violation or a daily civil fine of at least two hundred and fifty dollars per day.	Civil fine up to one thousand dollars per violation or a daily civil fine of at least five hundred dollars per day.	Civil fine up to one thousand five hundred dollars per violation or a daily civil fine of at least seven hundred and fifty dollars per day.	Civil fine of two thousand dollars or daily civil fine of at least one thousand dollars per day.

Beginning July 1, 2020, the department will consider the guidance in the tiered sanction grid below when imposing civil find remedies:

No Harm	Minimal or Moderate Harm		Serious Harm		Imminent Danger, Immediate Threat, or Both
Repeat/ Uncorrected	Initial	Repeat/ Uncorrected	Initial	Repeat/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to five hundred dollars per violation or a daily civil fine of at least two hundred and fifty dollars per day.	Civil fine up to one thousand dollars per violation or a daily civil fine of at least five hundred dollars per day.	Civil fine up to two thousand dollars per violation or a daily civil fine of at least one thousand dollars per day.	Civil fine up to three thousand dollars per violation or a daily civil fine of at least one thousand five hundred dollars per day.	Civil fine of three thousand dollars or daily civil fine of at least one thousand dollars per day.

For the purpose of this section, the following definitions of harm apply:

- (1) **"Minimal"** means violations that result in little or no negative outcome or little or no potential harm for a resident.
- (2) **"Moderate"** means violations that result in negative outcome and actual or potential harm for a resident.
- (3) **"Serious"** means violations that either result in one or more negative outcomes and significant actual harm to residents that does not constitute imminent danger, or there is a

reasonable predictability of recurring actions, practices, situations, or incidents with potential for causing significant harm to a resident, or both.

- (4) **"Imminent danger"** or **"immediate threat"** means serious physical harm to or death of a resident has occurred, or there is a serious threat to the resident's life, health, or safety.

WSR 19-04-089
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed February 5, 2019, 8:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-01-109.

Title of Rule and Other Identifying Information: WAC 308-91-040 General provisions.

Hearing Location(s): On March 13, 2019, at 10:00 a.m., at Black Lake Building #2, 405 Black Lake Boulevard S.W., Conference Room 2108, Olympia, WA 98502. Check in at front counter.

Date of Intended Adoption: March 14, 2019.

Submit Written Comments to: Wesley Marks, Department of Licensing, P.O. Box 9228, Olympia, WA 98507-9228, email wmarks@dol.wa.gov, by March 12, 2019.

Assistance for Persons with Disabilities: Contact Wesley Marks, phone 360-664-1850, TTY 711, email wmarks@dol.wa.gov, by March 12, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule change will allow drivers to keep a photocopy, electronic image, or the original cab card in their vehicle.

Reasons Supporting Proposal: The international registration plan updated its requirements for acceptance of credentials in vehicles.

Statutory Authority for Adoption: RCW 46.87.010(2).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Wesley Marks, 405 Black Lake Boulevard S.W., Olympia, WA 98502, 360-664-1850.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The department is exempt under RCW 34.05.328 and this rule making does not qualify as a significant legislative rule or other rule requiring a cost-benefit analysis.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule change will impose no costs to businesses.

February 5, 2019
 Damon Monroe
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-03-071, filed 1/19/16, effective 2/19/16)

WAC 308-91-040 General provisions. (1) **Can carriers separate their apportionable vehicles into more than one fleet?** Yes, carriers may separate their apportionable vehicles into two or more fleets.

(2) **How must I display my cab card?** The original paper cab card, a legible paper copy, or a legible electronic image must be carried in or on the vehicle to which it has

been issued. If you have renewed for a subsequent registration year but are still operating in the current registration year, you are required to carry both cab cards.

(3) **Are photocopies of the cab card acceptable?** (~~No, photocopies or other facsimiles (fax) of any cab card cannot be used for the power unit.~~) Yes, a photocopy of the original cab card is acceptable provided the copy is legible.

(4) **May my proportional registration credentials be transferred?** Yes, vehicle license plates and validation tabs may be transferred when moving the vehicles from one fleet to another fleet for the same registrant. Cab card(s) cannot be transferred under any circumstance.

(5) **When must I surrender my proportional registration credentials?** Cab card(s) must be surrendered in order to receive license fee credit unless the supplement is filed electronically.

(6) **Under what circumstances may Washington license fees be adjusted?** For any unpaid invoices, Washington license fees may be adjusted, in one-twelfth increments, if reasonable cause has been established. Reasonable cause may be considered as the demise of the registrant, destruction of a vehicle, theft or other cause the department determines otherwise acceptable. Washington license fees may also be adjusted by audit.

WSR 19-04-096
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed February 5, 2019, 12:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-22-104.

Title of Rule and Other Identifying Information: Required action district (RAD), WAC 392-501-707 through 392-501-740, proposed changes include moving these provisions to new chapter 392-503 WAC.

Hearing Location(s): On March 13, 2019, at 4:00 p.m., at South Puget Sound Community College (SPSCC) Event Center, Room 194, 4220 6th Avenue S.E., Lacey, WA 98503. This hearing will occur in conjunction with state board of education hearing also related to RADs.

Date of Intended Adoption: March 20, 2019.

Submit Written Comments to: Katherine Mahoney, Office of Superintendent of Public Instruction (OSPI), P.O. Box 47200, Olympia, WA 98504-7200, email Katherine.mahoney@k12.wa.us, by March 13, 2019.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 360-725-6133, fax 360-754-4201, TTY 360-664-3631, email Kristin.murphy@k12.wa.us, by March 6, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these proposed rules is to provide a process for: The identification and recommendation for the designation of school districts as RADs; recommending release from designation as a RAD; providing an option to extend RAD status for districts.

The proposed rules would also make technical changes to the current rules, would recodify the rules in a new chapter of the WAC. OSPI is proposing these changes in collaboration with the state board of education, which also has rule-making authority regarding RADs.

Reasons Supporting Proposal: The RAD process and rules are intended to provide additional supports to school districts and schools with persistent challenges in demonstrating progress in improving outcomes for students. The RAD process was originally designed under the federal No Child Left Behind Act, which has since been reauthorized as the Every Child Succeeds Act (ESSA). Some changes to RAD are required to align the state-directed RAD process with the new federally required accountability framework. This rule making is occurring in collaboration and conjunction with the state board of education, which is proposing changes to rules also related to RADs.

Statutory Authority for Adoption: RCW 28A.657.020, 28A.657.030, 28A.657.100.

Statute Being Implemented: RCW 28A.657.020, 28A.657.030, 28A.657.100.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Katherine Mahoney, Old Capitol Building, 600 Washington Street S.E., Olympia, WA, 360-725-6033; and **Implementation:** Tennille Jeffries-Simmons, Old Capitol Building, 600 Washington Street S.E., Olympia, WA, 360-725-6033.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.030.

Explanation of exemptions: No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

February 5, 2019
Chris P. S. Reykdal
State Superintendent
of Public Instruction

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-501-707 Authority.

WAC 392-501-710 Purpose.

WAC 392-501-715 Definitions.

WAC 392-501-720 Process and criteria for identifying challenged schools in need of improvement.

WAC 392-501-730 Process and criteria for recommending to the state board of education school districts for required action.

WAC 392-501-740 Exit criteria for required action designation.

Chapter 392-503 WAC

REQUIRED ACTION DISTRICTS

GENERAL

NEW SECTION

WAC 392-503-100 Authority. The authority for these rules is RCW 28A.657.020, 28A.657.030, and 28A.657.100, which require the superintendent of public instruction to annually:

(1) Identify challenged schools in need of improvement and a subset of such schools that are the persistently lowest-achieving schools in the state;

(2) Recommend school districts for designation as required action districts to the state board of education; and

(3) Make recommendations to the state board of education regarding the release of school districts from being designated as a required action district.

NEW SECTION

WAC 392-503-110 Purpose. The purpose of this chapter is to:

(1) Adopt criteria, aligned with Washington's federally authorized accountability system, for identifying challenged schools in need of improvement and a subset of such schools that are the persistently lowest-achieving schools in the state;

(2) Establish criteria for recommending to the state board of education school districts for required action; and

(3) Establish exit criteria for districts that receive a required action designation.

NEW SECTION

WAC 392-503-120 Definitions. For the purposes of this chapter, the following definitions apply:

(1) "Challenged schools in need of improvement" are schools which have been identified for comprehensive supports through Washington's federally authorized accountability system.

(2) "Federally approved accountability plan" refers to the state plan submitted to and approved by the federal Department of Education under the Elementary and Secondary Education Act of 1965, as amended.

(3) "Persistently lowest achieving schools" are a subset of "challenged schools in need of improvement" and are characterized, among other things, as schools showing a lack of progress for all students and subgroups of students over a number of years.

(4) "Required action district" is a district with one or more schools identified as a persistently lowest achieving school, which is recommended by the superintendent of pub-

lic instruction as a required action district and subsequently designated by the state board of education as a required action district.

(5) "Washington school improvement framework" or "WSIF" means the system of school differentiation described in the Washington accountability plan approved by the U.S. Department of Education as meeting federal requirements.

PERSISTENTLY LOWEST-ACHIEVING SCHOOLS

NEW SECTION

WAC 392-503-130 Process and criteria for identifying persistently lowest achieving schools. In February of every year, the superintendent of public instruction will identify challenged schools in need of improvement.

(1) Challenged schools in need of improvement shall be the same schools identified for comprehensive supports through the WSIF.

(2) A subset of these schools shall be identified as persistently lowest achieving schools. Schools identified as persistently lowest achieving schools will meet the following criteria:

(a) The school is a challenged school in need of improvement;

(b) The school is in the lowest decile for combined student growth as defined in the WSIF;

(c) The school is in the lowest decile for combined student proficiency as defined in the WSIF; and

(d) The school is located in a district that serves a significantly higher proportion than the state average of students in the student groups targeted by the superintendent of public instruction for the highest rates of annual improvement in English language arts and math proficiency, as described in the federally accepted Washington accountability plan.

(3) The superintendent of public instruction will prioritize persistently lowest achieving schools as follows:

(a) Identifying the percentage of schools identified for improvement through the WSIF within each persistently lowest achieving school's district;

(b) Ordering the list from the largest to the smallest percentage.

REQUIRED ACTION SCHOOL DISTRICTS

NEW SECTION

WAC 392-503-140 Process and criteria for recommending to the state board of education school districts for required action. (1) The superintendent of public instruction shall recommend to the state board of education school districts for designation as required action districts.

(2) The recommendations for designation of required action districts shall occur each year in March, or at a time mutually agreeable to the state board of education and the superintendent of public instruction.

(3) Only districts with one or more schools identified as a persistently lowest achieving school may be recommended as a required action district.

(4) The number of districts recommended for designation as a required action district will be based on:

(a) Prioritization, as described in WAC 392-503-130; and

(b) Availability of federal and state funds to meet the identified needs of the recommended districts.

EXIT CRITERIA

NEW SECTION

WAC 392-503-150 Exit criteria for required action designation—District option to extend designation. (1) **General.** The superintendent of public instruction shall recommend to the state board of education that a school district be released from designation as a required action district after the district implements a required action plan for a period of three years if the district no longer has a school on the persistently lowest achieving list.

(2) **Request for accelerated release.**

(a) A school district may request that the superintendent of public instruction recommend an accelerated release from required action status if the district has met the following criteria:

(i) The district must be designated as a required action district for two years;

(ii) The district must operate no school that has been prioritized as a persistently lowest achieving school under WAC 392-503-130.

(b) The request must be made in writing and provided to the superintendent of public instruction by February of the second year after the district's designation as a required action district.

(3) **Request to extend required action district designation.**

(a) A school district meeting the requirements for release from required action designation may request that the superintendent of public instruction allow the district to continue under required action designation for another three-year cycle.

(b) The request must be made in writing and provided to the superintendent of public instruction by February of the third year after designation as a required action district.

WSR 19-04-102

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 5, 2019, 4:05 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-23-081.

Title of Rule and Other Identifying Information: Chapter 308-61 WAC, Unauthorized and abandoned vehicles.

Hearing Location(s): On March 12, 2019, at 11:00 a.m., at the Department of Social and Health Services (DSHS) OB-2, Hood Conference Room, 1115 Washington Street S.E., Olympia, WA 98504, DSHS OB-2 hearing, check in at front counter of office. DSHS Office Bldg-2 Driving-directions; and on March 13, 2019, at 6:00 p.m., at the Moses Lake

Department of Licensing Office, 1007 West Broadway, Moses Lake, WA 98837-2604.

Date of Intended Adoption: March 14, 2019.

Submit Written Comments to: Robert Norton, Department of Licensing, P.O. Box 9030, Olympia, WA 98507-9030, phone 360-902-3701, email RNORTON@DOL.WA.GOV, by March 11, 2019.

Assistance for Persons with Disabilities: Contact Robert Norton, phone 360-902-3701, email RNORTON@DOL.WA.GOV, by March 10, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed language establishes guidelines and procedures under chapter 308-61 WAC to guide the proper administration and disbursement of funds from the abandoned recreational vehicle program.

Reasons Supporting Proposal: Key stakeholders, including members of the Tow and Recovery Association of Washington and the Automotive Recyclers of Washington, supported legislation to create this new program to ease the financial burdens to towing, wrecking and scrap metal businesses who are experiencing continuing problems and financial impact involving the proper disposal of abandoned recreational vehicles.

Statutory Authority for Adoption: RCW 46.55.190, 46.53.010.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Robert Norton, 1125 Washington Street S.E., Olympia, WA 98507, 360-902-3701; Implementation and Enforcement: George Price, 1125 Washington Street S.E., Olympia, WA 98507, 360-902-0120.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Changes will add no additional costs to stakeholders.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

February 5, 2019
Damon Monroe
Rules Coordinator

NEW SECTION

WAC 308-61-195 Abandoned recreational vehicle—Criteria and required information. (1) **What costs will be reimbursed?** Vehicles will be reimbursed for qualified towing, transporting, storing, dismantling, and disposal costs commencing May 1, 2019, and after. Activities prior to May 1, 2019, are not reimbursable.

(2) **What are the criteria for an abandoned recreational vehicle to be eligible for reimbursement?** The vehicle must:

- (a) Be identifiable by a unique VIN number;
- (b) Be impounded from public property;
- (c) Be abandoned pursuant to chapter 46.55 RCW;
- (d) Have the last known registered owner be unknown after a reasonable effort compliant with RCW 46.55.100;
- (e) Have received no bids at auction; or
- (f) Be declared an abandoned junk vehicle by a law enforcement officer.

(3) **What vehicle information must be provided to the department upon request for reimbursement?** All required information as listed on the department-approved form, to include at a minimum:

- (a) VIN;
- (b) Model year;
- (c) Make;
- (d) Model;
- (e) Body style;
- (f) Vehicle type;
- (g) Plate number; and
- (h) Plate state.

NEW SECTION

WAC 308-61-197 Abandoned recreational vehicle—Application and review. (1) **What is the application process?**

(a) All vehicles must first be handled through the abandoned vehicle process with an abandoned vehicle report (AVR) submitted to the department.

(b) The requestor asking for reimbursement must be one of the following businesses and be licensed at time of the activity in which requesting reimbursement:

- (i) A registered tow truck operator (RTTO), as defined by RCW 46.55.010(7);
- (ii) A vehicle wrecker, as defined by RCW 46.80.010(5);
- (iii) A scrap processor, as defined by RCW 46.79.010(2);
- (iv) A scrap metal business, as defined by RCW 19.290.-010(10).

(c) Each business must complete their process before making application for reimbursement for that vehicle:

(i) An RTTO's process is considered complete when the vehicle is moved to a vehicle wrecker, scrap processor or scrap metal business for disposal. A written record of delivery to a licensed dismantler or authorized disposal site will also be required with the abandoned recreational vehicle application. A copy of that report shall be maintained in the RTTO's vehicle transaction file.

(ii) A vehicle wrecker, scrap processor, or scrap metal business's process is considered complete when the vehicle has been dismantled and/or destroyed in a way that no major component remains useable as the original vehicle. It shall be included on the wrecker monthly report as a destroyed vehicle.

(d) A request must be submitted on a form prescribed by the department and include a copy of the original AVR or wrecker/salvage processor monthly report and complete sup-

porting documentation including written record of transport to a licensed dismantler or disposal site and all receipts verifying all costs requested for reimbursement.

(e) Businesses must submit for reimbursement by the end of the subsequent month following the activity.

(2) What is the review process?

(a) All requests will be reviewed and processed in the order received.

(b) The application and all required supporting documentation will be reviewed for the vehicle's eligibility and completeness.

(c) Once all qualifying criteria are met, a notation will be made on the record for that vehicle or a new record will be created for the vehicle.

(d) All vehicles reviewed will be grouped by each individual business submitting the request and in the order received in order to process one monthly payment.

(e) A vehicle summary and totals will be calculated and a disbursement will be ordered by the fifth business day of the following month.

(f) Incomplete applications will be returned to the business and will be eligible for reconsideration based on the new date of submission.

(3) Can I appeal an application that has been denied reimbursement?

(a) Yes. If an abandoned recreational vehicle has been denied for reimbursement by the department, the business shall be notified by the department in writing what information is required to complete the application for reimbursement or the reasons why the vehicle failed to meet the required criteria. The vehicle may be resubmitted with any required information for additional review.

(b) If the appeal has been reviewed and the vehicle is found to meet all requirements for reimbursement, the vehicle will be processed in the current month and order the appeal was received. Disbursements will be made by the fifth business day of the following month.

NEW SECTION

WAC 308-61-203 Abandoned recreational vehicle—Reimbursements. (1) **When will the reimbursement happen?** The abandoned RV program manager will process all reimbursement by the fifth business day of the month following the month that the reimbursement was received on vehicles that have met all criteria for eligibility.

(2) How/when will I get notified of the reimbursement?

(a) No confirmation of receipt for an application for reimbursement will be sent on any vehicle.

(b) If a qualified business is receiving a reimbursement for any vehicles that have been submitted, the business will receive one payment for the total of any qualified disbursements processed during the prior month along with a letter of confirmation for the vehicles included in that reimbursement.

(c) If a vehicle is not eligible for reimbursement, the department shall notify the business of the determination in writing.

(3) What if funds for reimbursements are unavailable? The reimbursements are dependent upon sufficient

funding within the abandoned recreational vehicle account. If sufficient funds are not currently available when an otherwise eligible request is received, the department will hold the request in the order it was received. The department shall notify the requestor in writing that the request is being held. When funding within the abandoned recreational vehicle account is sufficient for disbursement the department will process requests being held for that business in the order they were received.

NEW SECTION

WAC 308-61-207 Abandoned recreational vehicle—Turning over collections to the department. What if funds are received through collection efforts after receiving reimbursement from the department? Any funds received by the registered tow truck operator, wrecker, vehicle scrap, or scrap metal business as a result of collection activities shall be turned over to the department for any vehicles the business received reimbursements for.

NEW SECTION

WAC 308-61-215 Abandoned recreational vehicle—Rates and caps. At what rate will reimbursements be for?

(1) The costs will be reimbursed at a standardized scheduled rate:

Item	Standard Rate	Cap
Towing and Transport (Increment Per Hour - Maximum Three Hours Total for Identified Class)		
Class A Tow Vehicle (including - D and E)	\$145.00/hr.	\$435.00
Class B Tow Vehicle	\$165.00/hr.	\$495.00
Class C Tow Vehicle (including - B2 and S1)	\$250.00/hr.	\$750.00
Storage (Increment Per Day - Maximum 10 Days Total)		
Standard Storage	\$49.00/day	\$490.00
Dismantling and Disposal (Increment Per Foot - Maximum per Identified Vehicle Category)		
Motor Homes (Up to 35')	\$100.00/ft.	\$3,500.00
Travel Trailers (Up to 25')	\$100.00/ft.	\$2,500.00
Campers (Up to 15')	\$100.00/ft.	\$1,500.00

(2) Standard rates apply to:

(a) Hourly increment of towing and transport by tow vehicle class (i.e., a class 'B' tow vehicle used for two hours is three hundred thirty dollars; a class 'C' tow vehicle used for three hours is capped at seven hundred fifty dollars).

(b) Days of storage incurred (i.e., a vehicle stored for eight days is three hundred ninety-two dollars; a vehicle stored for twenty-five days is capped at four hundred ninety dollars).

(c) Classification of abandoned recreational vehicle dismantled and disposed up to the cap for that item (i.e., dismantling and disposal of a twenty-seven foot motor home is two

thousand seven hundred dollars; dismantling and disposal of a thirty foot travel trailer is capped at two thousand five hundred dollars).

WSR 19-04-105
PROPOSED RULES
WASHINGTON STATE UNIVERSITY
[Filed February 6, 2019, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 18-23-114.

Title of Rule and Other Identifying Information: Chapter 504-14 WAC, Campus parking and traffic regulations for Washington State University Health Sciences Spokane.

Hearing Location(s): On March 20, 2019, at 4:00 p.m., at Lighty 403, Washington State University (WSU) Pullman, Pullman, Washington and SAC 415, WSU Health Sciences Spokane, Spokane, Washington.

Date of Intended Adoption: April 17, 2019.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, fax 509-335-3969, by March 20, 2019.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, fax 509-335-3969, email prf.forms@wsu.edu, by March 15, 2019.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The university is updating the WSU Health Sciences Spokane (WSUS) campus parking and traffic regulations. The campus name and the title of the chapter are also updated to reflect current university naming conventions.

Statutory Authority for Adoption: RCW 28B.30.150.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WSU, public.

Name of Agency Personnel Responsible for Drafting: Stan Lewis, Operations Manager, WSUS Facilities Operations, CCRS 310, Spokane, WA 99210-1495, 509-358-7871; Implementation: Jon Schad, Campus Facilities Executive, WSUS Facilities Operations, CCRS 310, Spokane, WA 99210-1495, 509-358-7991; and Enforcement: Daryll B. DeWald, Chancellor, WSU Health Sciences Spokane, SAC 525, Spokane, WA 99210-1495, 509-358-7521.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The university does not consider this rule to be a significant legislative rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and

specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

February 6, 2019

Deborah L. Bartlett, Director
Procedures, Records, and Forms
and University Rules Coordinator

Chapter 504-14 WAC

**CAMPUS PARKING AND TRAFFIC REGULATIONS
FOR WASHINGTON STATE UNIVERSITY HEALTH
SCIENCES SPOKANE**

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-010 Authorization. Pursuant to the authority granted by RCW 28B.30.150, 28B.10.560, and chapter 34.05 RCW, the board of regents of the university adopts this chapter to govern parking and traffic at Washington State University Health Sciences Spokane, hereinafter referred to as WSUS. The board of regents may delegate authority to the president or their designee to adopt changes to the parking and traffic rules in this chapter. If adoption authority is delegated to the president or their designee, changes to this chapter are not submitted to the board of regents.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-020 Purposes of regulations. (1) The purposes of these regulations are to:

- (a) Expedite university business and provide maximum safety, order, and access;
- (b) Regulate parking, with priority given to:
 - (i) Services of the campus;
 - (ii) ~~((Persons))~~ Individuals who require the use of vehicles in connection with their on-campus work; and
 - (iii) Staff and students who require the use of private vehicles because of a disability or other approved reason;
- (c) Provide and maintain suitable campus parking and transportation systems; and
- (d) Provide ~~((incentive for))~~ participation in the commute trip reduction program.

(2) The chancellor or designee whose responsibilities include supervision of the parking ~~((department shall have))~~ office has the authority to designate particular locations as parking, temporary parking, restricted parking, or prohibited parking, as well as the authority to designate permanent and temporary areas as being closed to vehicular traffic.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-050 Emergencies. The chancellor or designee of the university ~~((shall have))~~ has the authority to sus-

pend, modify, or repeal any or all provisions in this chapter in the event of an emergency, disaster, or other like contingency. Such action (~~shall~~) must be limited in duration and scope based on the emergency.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-100 Definitions. The definitions in this section are applicable within the context of this chapter.

~~(1)~~ (1) Access-control/gate card. A plastic card that provides access to a location, building, or parking area, and/or activates a gate or similar device controlling access to certain parking areas.

~~(2)~~ (2) Campus. Describes all property owned, leased, and/or controlled by the WSUS campus which is or may hereafter be dedicated mainly to the educational, research, housing, recreational, parking, or other activities of the university.

~~((2))~~ (3) Day. Unless otherwise specified, the term "day" refers to a calendar day.

~~((3))~~ (4) Disability parking. See ~~((persons))~~ individuals with disability.

~~((4))~~ (5) Disability zone. A parking zone designated for exclusive use by ~~((persons))~~ individuals with disability and identified with a sign bearing the associated international symbol.

~~((5))~~ (6) Electric-assisted bicycle. As defined under RCW 46.04.169.

~~(7)~~ (7) Fire zone. An area needed for emergency access to buildings, fire hydrants, or fire equipment. Such areas include, but are not limited to, areas with adjacent curbs or rails painted red.

~~((6))~~ (8) Holiday. See university holiday.

~~((7))~~ (9) Illegal use of permit. A parking violation in which a parking ticket is issued under the following circumstances:

(a) Use of a parking permit or indicator on a vehicle other than the specified vehicle identified by a license plate number on the permit.

(b) Use of a counterfeit parking permit or indicator.

(c) Use of a parking permit or indicator obtained under false pretenses.

(d) Use of a modified parking permit or indicator.

(e) Use and/or retention of a parking permit or indicator by ~~((person(s)))~~ individual(s) ineligible, or no longer eligible, for such permit as described and authorized in this chapter.

~~((8))~~ (10) Impound. To take and hold a vehicle in legal custody by use of a wheel lock and/or towing.

~~((9))~~ (11) Indicator. A decal or hanger displayed adjacent to a parking permit which defines additional parking areas available to a permit holder.

~~((10))~~ (12) Loading zone. A loading dock, or an area signed "loading zone" adjacent to a facility or in a parking area. Such an area is intended for loading and unloading bulky or voluminous material. Loading zones are restricted at all times unless signed otherwise.

~~((11))~~ Moped. Any two-wheeled or three-wheeled motor vehicle with an engine displacement of 50cc or less.

~~(12) Motorcycle.~~ Any two-wheeled or three-wheeled motor vehicle with an engine displacement greater than 50cc.

~~(13) Motor vehicle.~~ All motor-driven conveyances except wheelchairs. (13) Moped. As defined under RCW 46.04.304.

(14) Motorcycle. As defined under RCW 46.04.330.

(15) Motorized foot scooter. As defined under RCW 46.04.336.

(16) Motor vehicle. As defined under RCW 46.04.320. Also referred to as "vehicle" in this chapter.

~~((14))~~ (17) No parking zone. Any area not specifically marked and/or signed for parking. Such areas include, but are not limited to, areas with adjacent curbs or rails painted yellow.

~~((15))~~ (18) Officer. Any parking or campus safety and security official employed by the university who is designated by the parking administrator or chancellor to place and remove wheel locks or to cause vehicles to be towed under this chapter.

~~((16))~~ (19) Owner. The ~~((person))~~ individual registered with any state as the present owner of a vehicle in the most current registration records available to the university, the owner's expressed representative, or any transferee not designated in such records, provided that the parking administrator has received actual written notice of the transfer.

~~((17))~~ (20) Park/parking. This refers to the placement or standing of a vehicle, with or without a driver in attendance, and with or without the engine running.

~~((18))~~ (21) Parking administrator. The manager in charge of the parking ~~((department))~~ office or designee.

~~((19))~~ (22) Parking appeals committee. Any ~~((person or persons))~~ individual or individuals appointed to consider parking violations and the application of fees, fines, and sanctions. Said ~~((person or persons))~~ individual or individuals are appointed by the ~~((vice))~~ chancellor or designee whose responsibilities include supervision of the parking ~~((department or designee))~~ office.

~~((20))~~ (23) Parking ((department)) office. The university department which is charged with the responsibility of managing, operating, planning, and maintaining parking facilities; enforcing the parking regulations; and coordinating commute trip reduction efforts for the WSUS campus.

~~((21))~~ (24) Parking meter. A single fixed device that typically requires payment and limits the amount of time a vehicle can park in a single space. Also referred to as "meter" in this chapter. A parking meter is not a parking payment device.

~~((22))~~ (25) Parking payment device. A machine that requires payment and vends a parking permit and/or a paid receipt. Parking payment devices may be located in various places on the campus. A parking payment device is not a parking meter.

~~((23))~~ (26) Parking permit. A vinyl, plastic, paper, or other instrument sanctioned by the parking ~~((department))~~ office that is displayed from a vehicle and authorizes parking in specified areas. Some parking permits may be purchased online and may be virtual in nature (see definition of virtual permit in subsection (47) of this section) and identified by other means, such as by license plate. Also referred to as "permit" in this chapter.

~~((24))~~ (27) Parking ticket. The first notice of a parking violation which is usually placed in a visible location on a motor vehicle.

~~((25))~~ (28) Pay parking facility. A location where parking is provided, and payment is made on-site via a parking payment device, cashier, or means other than a parking meter.

(29) Pedestrian mall. A space that is designed primarily for pedestrian use, but with limited authorized use of motor vehicle and other motorized and nonmotorized conveyances.

~~((26) Persons)~~ (30) Individuals with disability. For the purpose of this chapter ~~((persons))~~ individuals with disability ~~((shall refer to a person or persons))~~ refers to an individual or individuals with disability or disabilities who qualify for a state-issued ~~((persons with disability))~~ individual with disabilities parking identification and permit.

~~((27))~~ (31) Resident priority zone. A parking area close to a residence hall that is typically limited to use by residence hall students.

(32) Residence hall student. A student with a current, valid residence hall contract, who lives in a residence hall.

(33) Residence hall. Residence hall units (dormitories) that are owned by the university but are not included as university-owned housing apartments. Occupants of residence halls are considered residence hall students and are eligible for parking permits in resident priority zones.

(34) Service vehicle. A vehicle used to provide a service for WSUS or a tenant or contractor of WSUS (e.g., a university-owned vehicle or a privately owned vehicle with a valid service vehicle authorization displayed).

~~((28))~~ (35) Service zone. Parking spaces or area designated for the use of service vehicles, other government-owned vehicles, and vehicles displaying a service indicator or commercial permit. Authorized vehicles may park in these zones on an occasional basis for a maximum of fifteen minutes, except for vehicles that display a service indicator issued for an extended time. Service zones are restricted at all times unless signed otherwise.

~~((29))~~ (36) Staff. For the purposes of these regulations, "staff" includes all nonstudent employees of the university and the nonstudent employees of other entities located on, or regularly doing business on campus. Teaching assistants, research assistants, and other students employed by the university, or other entities located on, or regularly doing business on campus, are not "staff." They are considered to be students for the purpose of these rules.

~~((30))~~ (37) Standing. "Standing" is the stopping of a vehicle with the driver remaining in it.

~~((31))~~ (38) Storage of a vehicle. Impounded vehicles are held in storage until released. During such time they are subject to storage fees.

~~((32))~~ (39) Student. The term student includes all ~~((persons))~~ individuals who are not staff who are taking courses at the university, enrolled full-time or part-time, pursuing undergraduate, graduate, professional studies, or auditing one or more class.

~~((33))~~ (40) Summer session. The summer session includes all summer sessions beginning on the first day of the earliest session, and ending on the last day of the latest session.

~~((34))~~ (41) University. Refers to Washington State University Health Sciences Spokane or WSUS.

~~((35))~~ (42) University holiday. A day regarded by the university as an official university holiday.

~~((36))~~ (43) University-owned housing. Housing units or apartments, and their respective parking areas, that are owned by the university, but are not included as residence halls. Occupants of university-owned housing are eligible for housing parking permits issued by the university.

(44) Unpaid. A full or partial outstanding balance due. This definition includes parking tickets which are pending appeal.

~~((37))~~ (45) Vacation. A period of time when classes or final exams are not in session. Except for holidays that fall within this period, the business offices of WSUS typically are open during this time.

~~((38))~~ (46) Vehicle storage. Vehicle storage means the parking or leaving of any vehicle for a period of more than twenty-four consecutive hours.

(47) Virtual permit. A virtual permit is authorization given at the time of vehicle registration with the parking office, allowing the registered vehicle to park in a designated lot, zone, or space. The virtual permit is associated to the vehicle license plate number and is used to identify the parking authorization.

(48) Visitors. ~~((Persons))~~ Individuals who are not staff or students and who only visit the campus on an occasional basis.

~~((39))~~ (49) Wheel lock. A device used to temporarily immobilize a motor vehicle. Wheel locked vehicles are considered to be impounded in place and subject to storage fees.

~~((40))~~ (50) Wheel lock-eligible list. The current list of wheel lock-eligible vehicles as maintained by the parking ~~((department))~~ office. A vehicle remains on the wheel lock-eligible list until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((41))~~ (51) Wheel lock-eligible vehicle. Any vehicle on which three or more parking tickets more than thirty days old are unpaid and which parking tickets were issued during the time the vehicle was registered to or otherwise held by the owner. The vehicle remains wheel lock-eligible until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(52) WSU disability permit. WSU-issued zone permit displayed with a valid state-issued disability placard or disability license plate.

(53) WSUS. Washington State University Health Sciences Spokane.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-200 Enforcement authority. The parking ~~((department))~~ office staff and the ~~((public))~~ safety and security officers are charged with the impartial enforcement of these regulations ~~((Officers of these departments))~~ and

have authority to issue parking tickets, to impound vehicles, and to control access to areas.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-210 Times of enforcement. Parking regulations are subject to enforcement at all times.

(1) Parking permit areas. All parking permit zones are limited to authorized permit holders during all hours of the day. These hours are posted in each parking area at the entrance.

(2) Restricted spaces. These spaces are restricted for their designated purpose at all times unless signed otherwise:

- (a) Disability zones.
- (b) Load/unload.
- (c) Service.
- (d) Reserved.
- (e) Reserved (bagged) parking meters.
- (f) Pedestrian mall.

(g) Areas which are specially signed or physically set apart by barricades, traffic cones, tape, or other traffic devices.

(3) Parking metered spaces. Parking meters are in effect during the times posted on each meter. During these times the meter must be paid the posted amount. Additional time cannot be purchased beyond the meter's posted maximum time limit (e.g., a thirty-minute meter allows a maximum of thirty minutes to be purchased at one time). A motor vehicle which is parked at an expired parking meter is considered in violation initially, and after each period equal to the maximum time posted for the meter. In such case a parking ticket may be issued for each violation. For example, a vehicle parked at a meter with a two-hour maximum time limit for six hours and five minutes of continuous unpaid parking at the same meter would be eligible for up to three parking tickets.

(4) Pay parking facilities. Some parking areas provide parking on an hourly basis. Hours of operation and a schedule of fees are posted at the facility entrance and at the point of payment. Parking tickets are issued to vehicles that are parked over the duration of time that was paid and for non-payment. Parking areas with parking meters are not considered pay parking facilities.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-220 Signed and marked areas. (1) Parking on campus is ~~((permitted))~~ allowed only in the marked and/or signed spaces in parking facilities. All other areas outside these designated areas are "no parking zones." Each parking facility has signs or markings to indicate the type of permit or payment required and the times they are required.

(2) Individual parking spaces are marked, and no vehicle may be parked so as to occupy any portion of more than one parking space. The fact that other vehicles were parked in a manner requiring a vehicle to occupy a portion of more than one space ~~((shall))~~ does not constitute an excuse for a violation of this regulation.

(3) Should there be a conflict between these regulations, map designation, and on-site signs regarding parking instructions, the on-site sign takes precedence.

(4) Permit areas and restricted spaces are not always signed individually.

(5) Standing (the stopping of a vehicle with the driver remaining in it) is ~~((permitted))~~ allowed in marked parking spaces, except metered spaces and restricted spaces, even though the vehicle does not have a valid parking permit. Double parking while "standing" is not ~~((permitted))~~ allowed.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-250 Motorcycles and mopeds. (1) The general traffic regulations applicable to motor vehicles apply to motorcycles and mopeds. Motorcycles or mopeds may not be driven on sidewalks or in pedestrian mall areas. Owners of motorcycles and mopeds are responsible for all violations issued.

(2) The university classifies mopeds and motorcycles ~~((by engine displacement (also referred to as engine size). This definition applies only to university property and does not replace or supersede))~~ in accordance with the definitions established by the state of Washington for licensing purposes. See RCW 46.04.304 and 46.04.330.

(3) Mopeds. Mopeds may park in any parking area with a valid parking permit or at any bicycle rack unless the rack is signed to exclude mopeds.

(4) Motorcycles. Motorcycles must display a valid university parking permit at all times.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-300 Financial responsibility for parking tickets. (1) Each registered parking permit holder ~~((shall be))~~ is financially responsible for parking tickets on vehicles:

- (a) Registered with the parking ~~((department))~~ office; and/or
- (b) Displaying the registered parking permit holder's permit.

(2) Owners of vehicles are ~~((held))~~ ultimately held financially responsible for parking tickets issued to their vehicle.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-350 Use of areas for emergency, maintenance, events, construction, or special needs. WSUS reserves the right to close and/or restrict access to any campus parking area, roadway, and/or sidewalk at any time it is deemed necessary for maintenance, safety, events, construction, or to meet special needs. The parking ~~((department))~~ office provides notice to users when possible.

Public safety, safety and security, and maintenance personnel performing official duties may deviate from these regulations as required to conduct emergency procedures.

NEW SECTION

WAC 504-14-370 Vehicle storage. The storage of vehicles, including motorcycles and mopeds, is prohibited on campus unless otherwise authorized by the parking office.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-410 Issuance, use, and term of parking permits. Parking permits are issued by the parking ((~~department~~)) office for available areas upon application and payment of the appropriate fees. The applicant may receive a parking permit and/or indicator which specifies parking area(s) where the vehicle may be parked. Permits are valid up to and including the expiration date on the permit.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-420 Withholding of fines and fees. All parking permit applications ((~~shall~~)) must provide that the university may withhold unpaid fines and fees, when permitted by law, from any sums owed the permit holder and to treat the same as a debt.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-440 Transfer of parking permit. A parking permit is generally not transferable, but exceptions can be made by parking operations as follows:

- (1) ((~~A person~~)) An individual relinquishing ownership and the eligible purchaser appear in person at the parking ((~~department~~)) office when requesting such a transfer;
- (2) The former owner relinquishes all ownership or claim to the permit and pays all outstanding fines; and
- (3) The new owner completes a new application form for the permit.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-450 Replacement parking permits and indicators. (1) Sold or traded vehicles. Failure to advise the parking ((~~department~~)) office of a sale or trade for registration purposes may result in continued responsibility to the permit holder for parking tickets received on vehicles.

The permit holder has responsibility for removing parking permits prior to selling or trading a vehicle. The identifiable remnants of the original permit must be presented to the parking ((~~department~~)) office to receive a free replacement. ((~~Persons~~)) Individuals failing to comply with this requirement ((~~shall~~)) must pay the cost of a new permit.

(2) Lost/stolen permits. Permit holders are responsible for the security of their permits. The theft or loss of a parking permit should be reported to the parking ((~~department~~)) office immediately upon discovery. A lost or stolen permit may be replaced upon payment to the parking ((~~department~~)) office of the cost of replacing the permit, according to a schedule adopted by the parking ((~~department~~)) office. Lost

or stolen permits must be returned to the parking ((~~department~~)) office immediately if recovered.

(3) Access-control/gate card replacement. A lost, stolen, or damaged access-control/gate card is replaced upon payment to the parking office of the cost of replacing the access-control/gate card, according to a schedule adopted by the parking office.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-460 False information. No ((~~person shall~~)) individual may obtain, attempt to obtain, or use in a manner contrary to these regulations, a modified or counterfeit parking permit or a permit issued upon false information. A violation of this section includes giving a false name, address, and/or other information known to be false. It also includes the use of a visitor, conference, and commercial permit by staff or students. Violation of this provision ((~~shall~~)) constitutes the illegal use of a parking permit and is subject to issuance of a parking ticket.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-510 Parking permits—General. (1) The university issues parking permits for designated areas of the campus. Any vehicle parked on the campus must clearly display a valid university parking permit in accordance with this chapter during the posted hours when and where permits are required. University staff and students may not use any other permit in lieu of a valid university parking permit.

(2) Inoperable vehicles. It is the owner's responsibility to immediately contact the parking office or campus safety and security in the event that the owner's vehicle becomes inoperable when the vehicle is parked on campus.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-520 Parking permits—Form and display. All parking permits must be displayed in the approved position on the vehicle with permit numbers and relevant dates visible. Vehicles with permits which are not displayed in accordance with the provisions of this section are subject to parking tickets for the violation of improperly displaying a permit.

(1) Autos and trucks((~~:~~))
 (a) Hanging permits, both annual and daily, must be displayed hanging from the rear view mirror post or placed on the dash of vehicle, driver's side, in a manner permitting visibility from outside at all times.

(b) Permits mounted solely by suction cup and permit decals directly affixed to the windshield must be displayed on the front windshield at the lower left corner (driver's side). Decals must be mounted completely by means of their own adhesive (not by tape)). Permits must be displayed as instructed on the permit and/or by the parking office.

(2) Motorcycles must always prominently display a valid permit ((~~at all times~~)).

(3) Virtual permits. Certain parking permissions do not require that a permit be displayed. In those instances, the virtual permit is associated with the vehicle license plate registered.

(a) Vehicles must be parked so that the license plate is visible from the driving aisle.

(b) No covers may be placed over the license plate that would inhibit the reflectivity of the plate.

(c) The alphanumeric characters of the license plate must be visible and unobstructed by license plate frames and/or other accessories.

(d) Individuals with virtual permits must ensure their current vehicle is registered and associated with their virtual permit. This process can be accomplished at the parking office.

(e) A virtual permit with multiple registered vehicles on the same virtual permit does not allow for more than one motor vehicle to be parked on campus at the same time.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-540 Zone parking permits—Availability and use. Parking space is not guaranteed. The management and assignment of parking zones is designed to provide a parking space to each permit holder. However, uncontrolled access to parking areas and unexpected parking demand make it impossible to guarantee a parking space in a permit holder's ~~((assigned))~~ purchased zone. Every effort is made via surveys and limits on permit sales, to ensure that permit holders are not displaced from their ~~((assigned))~~ purchased zones. ~~((Staff and students are generally assigned to specific parking areas referred to as zones.))~~ Parking zones are color-coded with respect to their price ~~((and numbered with respect to the specific parking zone assignment of each permit holder))~~. Permit holders ~~((may))~~ must park in their ~~((assigned zone as reflected by the combination of color and number on their permit and corresponding sign, or they may park in other zones))~~ color-coded zone as described below.

(1) Orange permits. Orange permit holders may park in either orange or green zones.

(2) Green permits. Green permit holders ~~((may))~~ must park in ~~((their assigned green zone, or in any yellow or red zone.~~

(2) Yellow permit. Yellow permit holders may park in their assigned yellow zone, or in any red zone.

(3) Red permit. Red permit holders may park in the red zone)) green zones only.

AMENDATORY SECTION (Amending WSR 09-11-069, filed 5/14/09, effective 7/1/09)

WAC 504-14-560 Other parking permits—Availability and use. (1) Visitor permits. Visitor permits may be used only by bona fide visitors as defined by this chapter. Use by any other ~~((person))~~ individual constitutes illegal use of a parking permit. Visitor permits are valid in any zone and parking spaces signed for visitor permits only. Visitor permits are not valid at meters or restricted spaces.

(2) Permits honored by reciprocal agreement. Permits from other universities, including other WSU campuses, may

be used only if detailed in and allowed by a fully executed reciprocal agreement with WSU Health Sciences Spokane.

(3) Golden cougar permits. Golden cougar permits are special visitor permits that are issued to retired staff in recognition of their service without additional cost. They are issued on an annual basis and are valid in any zone. Staff who are employed by the university or by other entities located on campus after formal retirement are not eligible to use a golden cougar permit in lieu of a regular paid zone permit ~~((Comparable permits from other campus institutions will be honored)).~~

~~((3))~~ (4) President's associates decals. President's associates decals are issued to eligible members of the Washington State University foundation. Use of these decals for parking ~~((shall))~~ must be in accordance with a separate agreement between WSU and the WSU foundation. However, university faculty, staff, and students may not use a president's associates decal or any other parking benefit instrument in lieu of a paid zone permit.

~~((4) Conference))~~ (5) Event/conference permits. ~~((Conference))~~ Event/conference permits are available to visitors who participate in events and/or conferences held on the WSU campus. They are available on a daily basis only. ~~((Conference))~~ Event/conference permits may be assigned to a specific zone.

~~((5))~~ (6) Construction permits. A construction permit is issued to personnel who are working on a construction site on campus. Construction permits are available on an annual, semester, quarter, or daily basis and ~~((are))~~ may be assigned to a specific parking area.

~~((6))~~ (7) Carpool. Upon application, a bona fide carpool as defined by the campus policies and procedures ~~((is))~~ may be given preference in the assignment of parking zones, and issued a permit that facilitates the carpool. Carpool permits, virtual or otherwise, may not use more than one registered motor vehicle on campus at the same time. Obtaining or using a carpool permit under false pretenses constitutes the illegal use of a permit.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-580 Special indicator decals and hangers. Special indicator decals or hangers may be issued to staff and student permit holders who have otherwise valid parking permits in the following cases:

(1) A "service" virtual designation, indicator decal, or hanger is valid typically for a maximum of fifteen minutes in a marked service zone.

(2) A "mall service" virtual designation or indicator is valid typically for a maximum of fifteen minute parking in the pedestrian malls. These are available to staff or students who must use a private vehicle for university business. Mall service designations or indicators are typically issued on an annual or daily basis upon the approval of the parking administrator or their designee.

(3) A reserved parking virtual designation, indicator decal, or hanger is valid in parking spaces that are signed for the corresponding permit and indicator.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-600 Parking permits for ~~((persons)) individuals with disability.~~ (1) The provisions of this chapter cover the purchase and display of parking permits and payment of fees and fines associated with parking for ~~((persons)) individuals with disability.~~

(2) For the purpose of this chapter, ~~((persons)) individuals with disability shall refer to ((a person or persons)) individuals with disability who qualify for a state-issued ((persons with disability)) individual with disabilities parking identification and permit as provided in chapter 308-96B WAC.~~

~~(3) ((Persons with disability desiring to purchase a university parking permit must present a valid state-issued persons with disability parking identification.~~

~~(4) Unless otherwise authorized or permitted under this chapter, parking in spaces designated for persons with disability requires a valid university parking permit and state-issued persons with disability parking permit to park on campus.~~

~~(5) A person)) The university uses the state individual with disabilities parking permit system to determine eligibility for disability parking.~~

~~(4) Unless otherwise authorized, parking in spaces designated for individuals with disability requires a WSU disability permit to park on campus.~~

~~(5) Individuals with disability desiring to purchase a university parking permit must present a valid state-issued individual with disabilities parking identification.~~

~~(6) Individuals with a WSU disability permit may park in an individuals with disability parking space and any other, nonrestricted permit space within a parking permit zone.~~

~~(7) Individuals with a WSU disability permit may not park in restricted spaces with the exception of individuals with disability parking spaces.~~

~~(8) Unless otherwise posted, any university parking permit which includes a WSU disability permit is not valid in lieu of payment of regular posted fees in pay parking facilities.~~

~~(9) A state-issued individual with disabilities license plate, placard, or permit is valid in lieu of a WSU disability permit in parking zones during times when a university permit is not required.~~

~~(10) An individual with disability is eligible to purchase ((a)) an orange permit at the green permit ~~((at the red permit))~~ zone price.~~

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-650 Parking fees and fines. (1) Schedules for parking fees, parking administrative fees, late payment fees, parking fines and sanctions, parking meter rates, prorate and refund schedules, and the effective date thereof are submitted to the president or ~~((his/her)) their~~ designee and to the board of regents for approval by motion; provided, however, that increases in fees and fines do not exceed limits established by the board of regents. Increases in fees and fines that do not exceed limits established by the board of

regents are not submitted to the board of regents so long as the board of regents has delegated authority to the president or ~~((his)) their~~ designee to approve all such fees and fines. The schedules for all parking fees and fines described above for all parking fees and fines are thereafter posted in the public area of the parking ~~((department))~~ office and posted on the university's parking ~~((department's))~~ web site.

(2) Payments. Parking fees and fines may be paid at the parking ~~((department))~~ office by cash, check, approved payment card, or money order. A payroll deduction plan is available for eligible university employees and eligible graduate students.

(3) The proper fee must be paid for all vehicles parking in parking meter spaces unless otherwise authorized.

~~(4) ((Staff members whose work schedules qualify them for nighttime differential pay may purchase the green zone permit for the red zone permit price.~~

~~(5)) Refunds. Annual physical permits being relinquished ((may)) must be returned to the parking ((department)) office in person for a pro rata refund (if any is available) in accordance with university policy. Identifiable remnants of ((the)) physical permits must be returned. In the case of annual virtual permits, the permit purchaser must notify the parking office in person or in writing that they want to relinquish the permit permissions for a pro rata refund (if any is available) in accordance with university policy. The balance of any fees and fines owed the parking ~~((department))~~ office is deducted from any available refund due. Refunds for temporary permits are not granted. Refunds for pretax payroll deductions cannot be granted pursuant to federal tax laws.~~

~~((6)) (5) The parking ~~((department))~~ office makes a wide array of options available in advance to university departments for use by their visitors, guests, and employees for the purpose of conducting departmental business. However, when necessary, university departments that can establish in writing that a parking ticket issued by the parking ~~((department))~~ office was received as a result of parking any vehicle for the purpose of conducting official state business, or while conducting official business with the university or any entity located at the university are assessed a parking fee assessment (PFA) in lieu of the parking fine. Such requests for PFAs are signed by a department fiscal custodian. A PFA consists of the maximum daily parking fee plus an additional administrative fee for failing to purchase and provide the necessary parking permit or fee in advance or at the time of parking. University departments are encouraged to avoid additional administrative fees associated with PFAs by purchasing and storing prepaid parking permits and by making them available as the department deems necessary. Nothing in this regulation allows a university employee to receive, or attempt to receive, any benefit associated with ~~((his or her)) their~~ personal expenses in violation of the State Ethics Act. All questionable employee conduct regarding the application of this section is reported to, and investigated by, the university internal auditor. This section applies only to parking tickets issued pursuant to this chapter.~~

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-750 Reciprocal parking agreements.

(1) Purpose. The university can enter into reciprocal parking agreements with other universities and Washington State University campuses for the purpose of enhancing the accessibility to various campuses for faculty, staff, and students participating in various courses and programs.

(2) The university faculty, staff, and students assigned to, enrolled at, or who pay fees to the WSUS campus or employees of other entities located on the WSUS campus must legally display and/or possess a valid university parking permit when parking at the university. Any attempt by the above personnel to use a parking permit from another university campus in lieu of a valid WSUS permit may result in a fine for illegal use of a parking permit.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-810 Violations, fines, and sanctions. (1)

Violations and fines. Parking violations are processed by the university. Fines must be paid at the parking ~~((department))~~ office or at other authorized locations by mail, or from the university's parking ((department's)) web site. Schedules for parking violations, fines, and sanctions are posted in the public area of the parking ~~((department))~~ office and on the university's parking ((department's)) web site.

~~((a)) The fine for "meter violation" and the fine for "overtime in a timed zone" violations are reduced by one half if paid within twenty-four hours of time of issuance. Eligible violations received on Friday or Saturday can be paid on the following Monday to satisfy the twenty-four-hour requirement. Mailed payment of fines must be postmarked within twenty-four hours to receive the one-half reduction.~~

~~((b)) Visitors. The first violation of notices for "no parking permit" and "no parking permit for this area" issued to a visitor is considered a warning notice upon presentation of the parking ticket to the parking department.~~

~~((c)) If a permit holder of record neglects to display his or her permit and receives a notice of violation for "no parking permit," a reduced fine is assessed when possession of a valid parking permit for the location is verified by the parking department within twenty-four hours.~~

~~((d)) Internal policies regarding disposition of parking tickets may be established on approval of the chancellor or designee whose responsibilities include supervision of the parking ~~((department, under the advisement of the university's internal auditor))~~ office.~~

(3) Inoperable vehicles. It is the owner's responsibility to immediately contact the parking ~~((department))~~ office in the event that the owner's vehicle becomes inoperable when the vehicle is present on campus.

(4) Payment of parking fines.

~~((a)) All parking fines are due upon issuance of a parking ticket. Thirty days after date of issuance of a parking ticket, a late fee ~~((shall be))~~ is added to all unpaid parking fines. For example, a parking ticket issued on May 1st ~~((would be))~~ is assessed a late fee on May 31st.~~

~~((b)) Failure to pay the fine and fee assessed for any violation results in referral to the university controller's office ~~((or to a private collection agency))~~ for internal collection.~~

~~((c)) Account balances not paid to the university voluntarily may be forwarded to an external collections agency and are subject to additional collection fees of up to fifty percent, attorney's fees, and court costs when necessary.~~

~~((d)) Where collection efforts are unsuccessful, the controller or designee may notify the registrar to refrain from issuing student transcripts or to withhold permission to reenroll for a subsequent term until outstanding fines and fees are paid.~~

~~((e)) The procedures discussed above are not exclusive, however, and failure by anyone to pay fines and fees may also lead to towing or use of the wheel lock device described in these regulations. Nor are the procedures discussed above a precondition to towing or use of the wheel lock.~~

(5) Failure to pay fines. Failure to pay a fine or comply with other penalties assessed pursuant to these regulations, and exhausting or failing to exercise appeals provided for in these regulations, may result in the inability to renew a vehicle license through the state pursuant to RCW 46.16.216.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-860 Appeal procedures. The parking ticket represents a determination that a parking violation has been committed and the determination is final unless otherwise provided for or appealed as provided in this chapter.

(1) Purpose. The parking appeals process serves three primary functions:

(a) To hear parking ticket appeals;

(b) To hear appeals of wheel lock eligibility determination; and

(c) To hear appeals of impoundments.

(2) Procedure. Any ~~((person))~~ individual who has received a parking ticket may appeal the alleged parking violation. Appeal of wheel lock eligibility determinations and impoundments are described in WAC 504-14-865 and 504-14-870.

(3) Written parking ticket appeals. The appeal must be in writing and received at the parking ~~((department))~~ office within ten calendar days of issuance of the parking ticket. Online forms for this purpose are available from the parking ~~((department))~~ office. The parking appeals committee makes an initial decision regarding the appeal within twenty calendar days during the academic year and within thirty calendar days during the summer months after receipt of the appeal. The committee provides a brief statement of the reason for its decision to the appellant within ten calendar days of the decision.

(4) Review hearing of initial decision. If the appellant is dissatisfied with the initial decision, the appellant may request a hearing before a hearing officer or the parking appeals committee. Such a request must be made within ten calendar days of the date of the initial parking appeals committee decision. If no such request is received, the initial decision ~~((shall be))~~ is final. During the hearing the appellant and representatives of the parking ~~((department))~~ office may

present and cross-examine witnesses. The hearing officer or appeals committee ~~((shall))~~ must render a decision in writing and provide appellant with the decision within ten calendar days after the hearing.

(5) Appeal to district court. RCW 28B.10.560 provides that ~~((a person))~~ an individual who is not satisfied with the final decision of the university may appeal to district court. The application for appeal to district court ~~((shall))~~ must be in writing and must be filed at the parking ~~((department))~~ office within ten calendar days after the date of the review hearing. The parking ~~((department))~~ office forwards the documents relating to the appeal to the district court.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-865 General. (1) Pursuant to the provisions of this chapter, an officer ~~((shall))~~ must cause a vehicle to be wheel locked, or towed, or both, if:

(a) The vehicle is on the wheel lock-eligible list; or

(b) The vehicle displays a lost, stolen, or counterfeit parking permit.

(2) Any vehicle may be towed away at owner's/operator's expense if the vehicle:

(a) Has been immobilized by wheel lock for more than twenty-four hours; or

(b) Is illegally parked in a marked tow-away zone; or

(c) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or

(d) Cannot be immobilized with a wheel lock device; or

(e) Is illegally parked in a disability space; or

(f) Is parked in an area designated to be used for emergencies, maintenance, events, or construction; or

(g) Is otherwise illegally parked based on the executive authority of the parking office or university safety and security.

(3) The driver and/or owner of a towed vehicle ~~((shall))~~ must pay towing and storage expenses.

(4) Any vehicle immobilized by use of the wheel lock device in excess of twenty-four hours is assessed a storage fee for each calendar day or portion thereof, beyond the first twenty-four hours.

(5) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.

(6) No vehicle impounded by towing or wheel lock devices ~~((shall be))~~ is released until the following fines are paid in cash or with an approved payment card:

(a) All unpaid parking ticket fines and late fees against said vehicle and any other vehicle registered to the violator and/or owner;

(b) A wheel lock fee; and

(c) All towing and storage fees.

(7) ~~((A person))~~ An individual wishing to challenge the validity of any fines or fees imposed under this chapter may appeal such fines or fees as provided in WAC 504-14-860. However, in order to secure release of the vehicle, such ~~((person))~~ individual must pay the amount of such fines or fees as

a bond which ~~((shall be))~~ is refunded to the extent the appeal is successful.

(8) An accumulation of six unpaid violations during any twelve-month period, exclusive of overtime at parking meter violations, and overtime in time zone violations, subjects the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-870 Wheel lock-eligible list. (1) The parking administrator ~~((shall be))~~ is responsible for creating and maintaining the wheel lock-eligible list. See definition of "wheel lock-eligible vehicle(-)" under WAC 504-14-100(51).

(2) A wheel lock-eligible vehicle ~~((shall be))~~ is placed on the wheel lock-eligible list after notice has been issued as provided in subsection (3) of this section and an appeal of the wheel lock eligibility determination, if requested, under subsection (4) of this section.

(3) At least ten days prior to placing a vehicle on the wheel lock-eligible list, the parking administrator ~~((shall))~~ must mail a notice to the owner. The parking administrator mails the notice to the address stated on the most current registration records available to the university from a state, or any more current address of which the parking administrator has actual written notice. The notice is sent by first class United States mail, postage prepaid. The notice ~~((shall))~~ must set forth:

(a) The make and license plate number of the alleged wheel lock-eligible vehicle.

(b) A specified date on which the wheel lock-eligible vehicle is subject to placement on the wheel lock-eligible list.

(c) A list of the three or more alleged unpaid parking tickets, including the parking ticket number, date, time, place of the violation, and the nature of the violation. This list ~~((shall))~~ must include all unpaid parking tickets issued to a particular vehicle to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(d) That the owner may avoid the placement of the vehicle on the wheel lock-eligible list by making payment in full of fines and late fees on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees by the specified date on which the vehicle is subject to placement on the wheel lock-eligible list.

(e) The name, mailing address (and street address if different), and telephone number of the parking ~~((department))~~ office that may be contacted to appeal the wheel lock eligibility determination. Such an appeal only considers whether an individual vehicle was properly placed on the wheel lock-eligible list and not the merits of an individual parking ticket, which may be addressed pursuant to a separate appeals process described in WAC 504-14-860.

(f) That the vehicle is subject to wheel lock, towing, or both once it is placed on the wheel lock-eligible list.

(g) That all late fees, wheel lock fees, towing, and storage fees ~~((shall be))~~ are payable in full to obtain the release of

a vehicle wheel locked or towed pursuant to this chapter in addition to payment of any and all unpaid parking tickets on this vehicle or other vehicles owned by the registered owner to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(4) If a request for an appeal of a wheel lock eligibility determination is received by the parking administrator before the specified date in the notice for placement of the vehicle on the wheel lock-eligible list, then the parking administrator ~~((shall))~~ must afford the owner an opportunity to appeal the wheel lock eligibility determination prior to the placing of a vehicle on the wheel lock-eligible list. Although the parking administrator ~~((shall))~~ does not have the authority to adjudicate the merits of any parking ticket, ~~((she or he shall))~~ they must, however, receive evidence and other input from the owner appealing the wheel lock eligibility determination that the notice given under subsection (3) of this section was erroneous or based on erroneous information.

(5) If an owner timely participates in the appeal as scheduled by the parking administrator, ~~((he or she shall))~~ the administrator must furnish the owner written notice of his or her decision prior to placing the vehicle on the wheel lock-eligible list.

(6) After the specified date provided in the notice issued under subsection (3) of this section, the parking administrator ~~((shall))~~ must review the records to ensure that the alleged unpaid parking tickets have not been paid or otherwise resolved, and that no information has been received indicating that the notice was erroneous.

(7) Once a vehicle has been placed on the wheel lock-eligible list, it ~~((shall))~~ must not be removed from the list unless and until:

(a) The fines and fees on all unpaid parking tickets issued during the time it has been registered to or otherwise held by the owner are paid or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees;

(b) The parking administrator receives reliable information that title to the vehicle has been transferred; or

(c) The parking administrator determines that the placement of the vehicle on the wheel lock-eligible list was erroneous.

(8) If a vehicle is not properly registered in any state or no registration information is available to the university and the vehicle is wheel lock eligible, then notice ~~((shall be))~~ is provided by posting on the vehicle a conspicuous notice, which ~~((shall))~~ must set forth:

(a) A description of the alleged wheel lock-eligible vehicle;

(b) A specified date on which the wheel lock-eligible vehicle is subject to placement on the wheel lock-eligible list;

(c) That the owner may avoid placement of the vehicle on the wheel lock-eligible list by making payment in full of fines and late fees on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees by the specified date certain on which the vehicle is subject to placement on the wheel lock-eligible list; and

(d) That the vehicle is subject to wheel lock, towing or both once it is placed on the wheel lock-eligible list.

(9) An officer ~~((shall))~~ must attempt to wheel lock any vehicle which appears on the wheel lock-eligible list when parked, lawfully or unlawfully, on campus.

(10) The parking administrator ~~((shall))~~ must ensure that officers are on duty to remove wheel locks from vehicles Monday through Friday between 8:00 a.m. and 5:00 p.m.; except during recognized holidays.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-880 Fees, fines, and release of an impounded vehicle. The owner of an impounded vehicle may not secure the release of the stored vehicle until payment in full of fines and fees has been made on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees relating to the vehicle which were issued while the vehicle was owned by the ~~((person))~~ individual who owned the vehicle at the time it is wheel locked or towed hereunder, and the owner has paid in full the wheel lock fee, unpaid parking tickets, late fees, storage fees, and towing fees for any and all other vehicles owned by the registered owner.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-885 Theft, damage, or removal of a wheel lock device. The following conduct of any ~~((person shall))~~ individual must be reported to parking ~~((department))~~ office or university safety and security:

- (1) Causing physical damage to a wheel lock device;
- (2) Removing, or attempting to remove, a wheel lock device; or
- (3) Taking or stealing a wheel lock device.

AMENDATORY SECTION (Amending WSR 08-08-048, filed 3/27/08, effective 7/1/08)

WAC 504-14-920 Closed and restricted areas. In certain designated areas on campus, such as the pedestrian mall in the campus core, driving is restricted to mall service vehicles and vehicles bearing university-issued individuals with disability permits.

AMENDATORY SECTION (Amending WSR 01-18-015, filed 8/24/01, effective 9/24/01)

WAC 504-14-930 Bicycles, skateboards, ~~((in-line skates, and))~~ scooters, and roller skates. (1) The riding and use of bicycles, skateboards, ~~((in-line skates, and))~~ scooters, and roller skates is prohibited ~~((from))~~ on all building plazas, ~~((and))~~ pedestrian overpasses, interior building spaces, parking structures, parking structure ramps, stairways, steps, ledges, benches, planting areas, or any other fixtures, and in any other posted area.

(2) Bicycles, skateboards, ~~((in-line skates, and))~~ scooters, and roller skates may be ridden and used on sidewalks outside the prohibited areas when a bike path is not provided. Operators must move at a safe speed and yield to pedestrians at all times.

(3) ~~((Bicycles, skateboards, in-line skates, and scooters may not be ridden on or over stairways, steps, ledges, benches, planting areas, or any other fixtures, or where there are restricted signs.~~

(4)) Electric-assisted bicycles must be used in a human propulsion only mode on pedestrian malls and sidewalks.

(4) Motorized foot scooters must be used in a human propulsion only mode on sidewalks.

(5) Operators must move at a safe speed and yield to pedestrians at all times. Reckless or negligent operation of bicycles, skateboards, scooters, and roller skates on any part of campus is prohibited.

(6) Bicyclists must obey all traffic ~~((rules of the road))~~ laws applying to persons riding bicycles when operating ~~((a))~~ bicycles ~~((in))~~ on roadways.

~~((5))~~ (7) Bicycles ~~((shall))~~ must be secured only at uni-versity-provided bicycle racks and bicycle storage facilities designed for such purpose.

(8) Bicycles that are not secured at university-provided bicycle racks or bicycle storage facilities may be impounded at the owner's expense.

(9) Abandoned and inoperable bicycles. Internal policies regarding abandoned and inoperable bicycles, including the impoundment of bicycles at the WSUS campus, may be established upon approval by the chancellor or designee whose responsibilities include supervision of the parking office.

AMENDATORY SECTION (Amending WSR 01-18-015, filed 8/24/01, effective 9/24/01)

WAC 504-14-940 Pedestrians. (1) When traffic control signals are in place at intersections, pedestrians ~~((shall be))~~ are subject to them.

(2) When traffic control signals are not in place or not in operation at pedestrian crossings, a vehicle must yield the right of way, by slowing down or stopping, when the pedestrian in the crossing is upon the same half of the roadway as the vehicle, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(3) No pedestrian ~~((shall))~~ may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(4) Pedestrians who are between adjacent intersections at which traffic control signals are in operation must not cross at any place except in a marked crosswalk.

WSR 19-04-106
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed February 6, 2019, 11:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-114 on August 2, 2016.

Title of Rule and Other Identifying Information: Establishing logbook requirements for game fish guides, food fish guides, and combination game fish and food fish guides.

Hearing Location(s): On June 14-15, 2019, at 8:00 a.m., at the Red Lion Hotel, 221 North Lincoln Street, Port Angeles, WA 98362.

Date of Intended Adoption: August 2, 2019.

Submit Written Comments to: Scott Bird, Washington State Department of Fish and Wildlife (WDFW) Rules Coordinator, P.O. Box 43200, Olympia, WA 98501-3200, email Rules.Coordinator@dfw.wa.gov, fax 360-902-2155, by June 12, 2019.

Assistance for Persons with Disabilities: Contact Delores Noyes, phone 360-902-2349, TTY 360-902-2207, email Delores.Noyes@dfw.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Logbooks will give fishery managers a better understanding of the guiding industry's role in state fisheries, including when and where guides are fishing, angler effort and catch.

Reasons Supporting Proposal: The rule will allow for documenting real time effort, species encounters and retention rates. This information will provide new information regarding all of these data points reported by guilds [guides] giving biologist[s] more information.

Statutory Authority for Adoption: RCW 77.32.470, 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.055, 77.12.045, and 77.12.047.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Kelly Henderson, 1111 Washington Street, Olympia, WA 98501, 360-902-2684; Implementation: Christopher Donley, 3215 North Discovery Place, Spokane Valley, WA 99216, 509-892-1001 ext. 307; and Enforcement: Chief Steve Bear, 1111 Washington Street, Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule does not affect hydraulics.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement
Commercial Fishing Guide Logbook Reporting Requirements, 2018

1. Description of the reporting, recordkeeping, and other compliance requirements of the proposed rule: The proposed rules requires [require] commercial fishing guides to report fishing guide activities to the department. The department will provide fishing guides with the paper format and electronic method to report guiding activity. The department will also provide direction regarding how and when to report.

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements: None, the information the department is requesting is limited and readily available.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs: The proposed rules requires [require] commercial fish-

ing guides to report fishing guide activities to the department. The proposed rule does not require any additional equipment or supplies. There is minimal additional cost to comply with the proposed rules. As noted above the department will provide the paper logbooks and electronic application for reporting.

4. Will compliance with the rule cause businesses to lose sales or revenue? No, the proposed rule does not affect the number of clients or numbers of fish available to catch. Therefore, the proposed rule should not cause any businesses to lose sales or revenue.

5. Cost of compliance for small businesses compared with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

1. Cost per employee;
2. Cost per hour of labor; or
3. Cost per one hundred dollars of sales.

The department's understanding is that most if not all fishing guides are small businesses. The proposed rule may result in minimal costs associated with completing the reporting requirements.

Each guide will be required to complete reporting for each trip. It will take approximately fifteen minutes to complete the reporting requirement at the end of each trip. The annual cost per guide to implement this rule is estimated to range from zero dollars for guides that purchase a license and do not fish to approximately a maximum of \$2,600 per guide per year (2 trip/day * 5 days/week * 52 weeks/Year * .25 hours/trip * \$20.00 dollars/hour = \$2,600).

6. Steps taken by the agency to reduce the costs of the rule on small businesses, or reasonable justification for not doing so: Most businesses affected by these rules are small businesses. The department will provide multiple ways for commercial guides to report guiding information to minimize costs to the businesses.

7. A description of how the agency will involve small businesses in the development of the rule: The department will be conducting meetings around the state to provide commercial fishing guides with the proposed rule and receive input from affected businesses. These meetings allow small businesses to participate in formulating these rules.

8. A list of industries that will be required to comply with the rule: All persons with a game fish guide, food fish guide and fish guide combination licenses will be required to comply with these rules.

9. An estimate of the number of jobs that will be created or lost as a result of compliance with the proposed rule: These rules impose reporting requirements. Compliance with the rules will not result in the creation or loss of jobs.

A copy of the statement may be obtained by contacting Scott Bird, P.O. Box 43200, Olympia, WA 98501-3200, fax 360-902-2155, email Rules.Coordinator@dfw.wa.gov [Rules.Coordinator@dfw.wa.gov].

February 6, 2019
Scott Bird
Rules Coordinator

NEW SECTION

WAC 220-352-245 Reporting required of licensed food fish, game fish and combination fishing guides.

(1) Licensed food fish, game fish and combination fishing guides shall maintain a daily logbook of guiding activity to include:

(a) Guide name and license No. for the guide leading the trip;

(b) Date that fishing took place. For multiday trips, each day is considered a separate trip;

(c) Specific name of river, stream, or lake fished;

(d) Site code of site fished as referenced within a list provided to each guide. If multiple sites are fished on the same day, each site is considered a separate trip;

(e) Client, "comped angler" and crew current fishing license number (wild ID No.) for each person on board if required to have a license or catch record card. A comped angler is an angler that fishes without charge;

(f) Indicate if person was a crew member or if angler was "comped";

(g) Species kept or released. For salmon and steelhead specify origin (hatchery, wild) and life stage (adult, jack).

(2) Logbooks are required to be completed for each trip before offloading any fish from the vessel or if no fish were kept, complete the logbook before leaving the site.

(3) Report of daily guiding activity shall be made using the department's paper logbook or online reporting application. Logbook pages must be provided to the department or postmarked by the Monday following the week (Monday through Sunday) the guiding activity took place.

(4) Each day of fishing that occurs on a designated WDFW licensed guide fish vessel will be required to be recorded in the logbook. This includes any personal use or nonguided fishing trips that occur.

(5) Information collected under this section may be exempt from public disclosure to the extent provided under RCW 42.56.430.

(6) Failure to report any guiding activity listed in subsections (1) through (4) of this section is an infraction, punishable under RCW 77.15.160.

(7) A fishing guide, or person under the control or direction of a fishing guide, that submits false information is guilty of a gross misdemeanor, punishable under RCW 77.15.270.