

WSR 19-09-003
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed April 4, 2019, 8:35 a.m., effective May 5, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-106-1920 to increase the step three benefit level for medicaid alternative care and tailored supports for older adults participants. This benefit level is tied to the home care agency rate that typically increases every six months. The department recently received notice of the new rate for home care agencies effective January 1, 2019.

The department is also amending WAC 388-106-1933 to describe modifications to the GetCare screening tool questions and risk level scores. A statewide area agencies on aging and home and community services division workgroup made revisions to the tool and the related risk scores in order to track and trend outcomes for program recipients enrolled in this five year demonstration waiver.

Citation of Rules Affected by this Order: Amending WAC 388-106-1920 and 388-106-1933.

Statutory Authority for Adoption: RCW 74.08.090, 74.39A.030.

Adopted under notice filed as WSR 19-05-072 on February 19, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: April 3, 2019.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-20-001, filed 9/19/18, effective 10/20/18)

WAC 388-106-1920 What is the maximum amount of step three services I may receive a month? (1) Unless the department authorizes additional funds through an exception to rule under WAC 388-440-0001, beginning January 1, 2019, the maximum amount of step three services you and your caregiver may receive in MAC and TSOA will be published on the ALTSA/HCS rates website at:

~~((a) From January 1, 2018 through June 30, 2018 is an average of five hundred fifty-eight dollars per month not to~~

~~exceed three thousand three hundred forty-eight dollars in a six month period.~~

~~(b) Beginning July 1, 2018 is an average of five hundred seventy-three dollars per month not to exceed three thousand four hundred thirty-eight dollars in a six month period))~~ https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All_HCS_Rates.pdf.

(2) If you are a care receiver who does not have an available unpaid caregiver, you are receiving TSOA personal assistance services, and the department has not authorized additional funds through an exception to rule under WAC 388-440-0001, beginning January 1, 2019, the maximum amount of step three services you may receive will be published on the ALTSA/HCS rates website at:

~~((a) From January 1, 2018 through June 30, 2018 is five hundred fifty-eight dollars per month.~~

~~(b) Beginning July 1, 2018 is five hundred seventy-three dollars per month))~~ https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All_HCS_Rates.pdf.

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

WAC 388-106-1933 How is the GetCare screening scored to determine if I am eligible for a GetCare assessment and related step three services? (1) ~~((For TSOA individuals who do not have an unpaid caregiver to support and are seeking step three TSOA services, the))~~ To be eligible for a GetCare assessment, care plan, and associated step three services as described in WAC 388-106-1915 (3)(b)(ii), a TSOA individual without a caregiver ((screening)) must ((result in a risk score of moderate or high to be eligible for a GetCare assessment, care plan, and associated step three services as described in WAC 388-106-1915 (3)(b)(ii).

~~(2) There are eight TSOA individual without a caregiver screening questions. The following table indicates the risk score allocated to each potential response to the eight))~~ have a moderate or high risk score resulting from the thirteen screening questions listed in the following table:

No.	Question	Scoring							
		Response	Score	Response	Score	Response	Score	Response	Score
1	Do you need help to do the following? Bathing Bed mobility Medication management Transferring Ambulating Eating Toileting Dressing Personal hygiene	Zero to two selected	Zero	Three or more selected	Two				
2	((During the last six months, have you had a fall that caused injuries)) Do you need help turning and repositioning?	No	Zero	Yes	Two				
3	((Do you have a family member/friend to give you help when you need it)) Who helps you with daily activities?	No <u>one</u>	((Zero)) One	((Yes)) Family/friend/other/paid help	((Two)) Zero				
4	((Have you thought about moving to other housing)) During the last six months, have you had a fall that caused injuries?	No	Zero	Yes	Two				
5	((Do you live alone)) Have you had a hospitalization, or been admitted to a nursing facility, or both, in the past six months?	No	Zero	Yes	Two				
6	((Do you or your family have concerns about your memory, thinking, ability to make decisions, or remembering to pay your bills)) Have you received rehabilitation in the past six months?	No	Zero	Yes((, somewhat concerned)))	((One)) Two	((Yes, very concerned))	((Two))		
7	((Do you need help turning and repositioning)) Have you been treated in an emergency room, called 911 in the past six months, or both?	No	Zero	Yes, <u>one to two times</u>	((Two)) One	Yes, <u>three or more times</u>	Two		
8	((Do you or your family have concerns about your mental or emotional well-being)) Do you live alone? If yes, do you feel safe living alone?	No	Zero	Yes((, somewhat concerned)))	((One)) Two	((Yes, very concerned))	((Two))		
	If yes, do you feel safe living alone?	No	One	Yes	Zero				
9	Do you plan on moving to other housing in the near future?	No	Zero	Yes	Two				
10	Do you or your family have concerns about your memory, thinking, ability to make decisions, or remembering to pay your bills?	No, not concerned	Zero	Yes, somewhat concerned	One	Yes, very concerned	Two		
11	Are you content with your social life?	No	Two	Somewhat	One	Yes	Zero		
12	Over the last two weeks, have you been bothered by, or have little interest in doing things?	Not at all	Zero	Several days	One	More than half the days	Two	Nearly every day	Three
13	Over the last two weeks, have you been bothered by feeling down, depressed, or hopeless?	Not at all	Zero	Several days	One	More than half the days	Two	Nearly every day	Three

~~((3))~~ (2) The risk level is calculated by totaling the ~~((eight point scores))~~ points assigned to each question as determined by responses to the screening questions in subsection ~~((2))~~ (1) of this section ~~((to determine))~~ and matching the total points to the risk level in the following ~~((risk categories))~~ table:

Risk level	Point totals
No risk	<u>0</u>
Low risk	1- ((5)) <u>8</u>
Moderate risk	((6-10)) <u>9-16</u>
High risk	((11-16)) <u>17 and up</u>

WSR 19-09-008
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
 [Filed April 5, 2019, 7:21 a.m., effective May 6, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-101 WAC, Washington state milk and milk products standards, by:

- Adopting the 2017 revision of the "Grade "A" Pasteurized Milk Ordinance" (PMO);
- Adopting the 2017 revision of the "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments";
- Adopting the 2017 revision of the "Methods of Making Sanitation Ratings of Milk Shippers and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers";
- Adopting the 2017 revision of the "Evaluation of Milk Laboratories";
- Updating exceptions to PMO that conflict with state law; and
- Revising the language in WAC 16-101-800 to remove the "question and answer" format and improve readability without changing its meaning.

Citation of Rules Affected by this Order: Amending WAC 16-101-701, 16-101-716, 16-101-721, 16-101-726, 16-101-731, and 16-101-800.

Statutory Authority for Adoption: RCW 15.36.021.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 19-05-060 on February 15, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 5, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 5, 2019.

Derek I. Sandison
 Director

AMENDATORY SECTION (Amending WSR 13-03-046, filed 1/10/13, effective 2/10/13)

WAC 16-101-701 Standards for the production of milk and milk products. (1) With the exception of the portions identified in subsection (2) of this section, the department adopts the Grade "A" Pasteurized Milk Ordinance, ~~((2011))~~ 2017 Revision, United States Public Health Service/Food and Drug Administration, as additional Washington state standards for the production of milk and milk products including Grade A condensed and dry milk products and condensed and dry whey products under chapter 15.36 RCW.

(2) The department does not adopt the following portions of the Grade "A" Pasteurized Milk Ordinance, ~~((2011))~~ 2017 Revision:

(a) Grade "A" Pasteurized Milk Ordinance - ~~((2011))~~ 2017 Revision.

PMO Page No.	Excepted Portion
((Pages 12-13)) <u>Page 16</u>	<ul style="list-style-type: none"> • Section 3, Permits, paragraph ((4)) <u>6</u>, which begins with "The regulatory agency shall suspend..." • Section 3, Permits, paragraph ((5)) <u>7</u>, which begins with "Upon notification..."
((Page 24)) <u>Pages 28-29</u>	<ul style="list-style-type: none"> • Section 6, The Examination of Milk and/or Milk Products, paragraph ((5)) <u>2</u>, which begins with "Whenever two (2) of the last four (4) consecutive..."
Page ((29)) <u>34</u>	<p>Section of Table 1 entitled "GRADE "A" RAW MILK AND MILK PRODUCTS FOR PASTEURIZATION, ULTRA-PASTEURIZATION ((OR)), ASEPTIC PROCESSING <u>AND PACKAGING OR RETORT PROCESSED AFTER PACKAGING"</u></p> <ul style="list-style-type: none"> • ((")) <u>Under</u> Temperature: "Cooled to 10°C (50°F) or less within four (4) hours or less of the commencement of the first milking and to 7°C (45°F) or less within two <u>(2)</u> hours after the completion of milking. Provided that the

PMO Page No.	Excepted Portion
	blend temperature after the first milking and subsequent milkings does not exceed 10°C (50°F)." Note: Milk sample submitted for testing cooled and maintained at 0°C (32°F) to ((4.4)) 4.5°C (40°F), <u>where sample temperature is > 4.5°C (40°F) but ((<=)) ≤7.0°C (45°F) and less than three (3) hours after collection has not increased in temperature;</u> <ul style="list-style-type: none"> Under Bacterial Limits((:)): <u>Only the sentence...</u>"Individual producer milk not to exceed 100,000 per mL prior to commingling with other producer milk."
Pages 34-35	<u>Under Somatic Cell Count: "individual producer milk not to exceed 750,000 per mL ... *Goat milk 1,500,000 mL."</u>

(b) Standards for Grade "A" Raw Milk for Pasteurization, Ultra-pasteurization ~~((ɪ))~~, Aseptic Processing and Packaging or Retort Processed After Packaging.

PMO Page No.	Excepted Portion
Page ((52)) 59	Item 18r. "Raw Milk Cooling" paragraph 1, which begins with "Raw milk for pasteurization, <u>ultra-pasteurization, aseptic processing and packaging or retort processed after packaging shall be cooled...</u> "
Page ((53)) 59	((#)) <u>I</u> "Administrative Procedures", ((paragraph)) <u>item 1</u> only

(c) Standards for Grade "A" Pasteurized, Ultra-pasteurized ~~((and))~~, Aseptically Processed ~~((Milk))~~ and Packaged Low-Acid Milk and/or Milk Products, and Retort Processed after Packaged Low-Acid Milk and/or Milk Products.

PMO Page No.	Excepted Portion
Page ((44)) 119	Item 18p. "Bottling, Packaging and Container Filling", under Public Health Reason, first sentence only which begins with "Manual bottling, packaging, and container filling..."
Page ((44)) 119	Item 18p. "Administrative Procedures", item number 2 only.
Page ((43)) 121	Item 19p. "Capping, container closure and sealing and Dry Milk Product Storage", Administrative Procedures, item number 1 only.

PMO Page No.	Excepted Portion
Page ((426)) 134	Sections 15 (Enforcement), 16 (Penalty), and 17 (Repeal and Date of Effect)

(d) Appendix E: Examples of 3-out-of-5 Compliance Enforcement Procedures.

PMO Page No.	Excepted Portion
Pages ((202-203)) 209-210	All of Appendix E

(3) The department does adopt the following somatic cell count standards to be: Individual producer bovine cow milk not to exceed 400,000 per mL; and goat, sheep, and all other species milk not to exceed 1,000,000 per mL.

AMENDATORY SECTION (Amending WSR 13-03-046, filed 1/10/13, effective 2/10/13)

WAC 16-101-716 Procedures for certification of interstate milk shippers. The department adopts the Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments ~~((2011))~~ 2017 Revision as Washington state procedures for the certification of interstate milk shippers.

AMENDATORY SECTION (Amending WSR 13-03-046, filed 1/10/13, effective 2/10/13)

WAC 16-101-721 Methods for making sanitation ratings of milk shippers. The department adopts the Methods of Making Sanitation Ratings of Milk Shippers ~~((2011))~~ and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers 2017 Revision, United States Health and Human Services Public Health Service/Food and Drug Administration as Washington state methods for ratings of interstate milk shippers.

AMENDATORY SECTION (Amending WSR 13-03-046, filed 1/10/13, effective 2/10/13)

WAC 16-101-726 Standard for the accrediting of milk laboratories. The department adopts the Evaluation of Milk Laboratories ~~((2011))~~ 2017 Revision United States Health and Human Services Public Health Service/Food and Drug Administration as the Washington state standard for accrediting milk laboratories and certified industry supervisors who request certification and approval for uniform collection and testing required for compliance with the Grade "A" Pasteurized Milk Ordinance.

AMENDATORY SECTION (Amending WSR 13-03-046, filed 1/10/13, effective 2/10/13)

WAC 16-101-731 Availability of the publications adopted by the department in this chapter. (1) The Grade "A" Pasteurized Milk Ordinance, ~~((2011))~~ 2017 Revision, United States Public Health Service/Food and Drug Admin-

istration, the Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ((2011)) 2017 Revision, the Methods of Making Sanitation Ratings of Milk Shippers, ((2011)) and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers 2017 Revision, United States Department of Health and Human Services Public Health Services/Food and Drug Administration, and the Evaluation of Milk Laboratories, ((2011)) 2017 Revision, United States Department of Health and Human Services Public Health Service/Food and Drug Administration can be obtained at (~~(: http://www.fda.gov/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/default.htm)~~) https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/ucm2007966.htm.

(2) For information regarding the contents and application of these publications, contact the Food Safety and Consumer Services Division at the Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560 or FSCS@agr.wa.gov.

AMENDATORY SECTION (Amending WSR 97-19-045, filed 9/11/97, effective 10/12/97)

WAC 16-101-800 Raw milk warning labels. (1) ~~((What authority does the department have to require warning labels on retail raw milk containers?))~~ This rule is ~~((being))~~ promulgated under authority of RCW 15.36.-021(1) and ~~((69.04.398(3)).~~

~~((2) To what does this rule apply? The labeling requirements in this rule apply))~~ 15.130.120 and applies to containers of raw milk intended for sale to consumers in the state of Washington.

~~((3) Why is the Washington state department of agriculture adopting warning label requirements for retail raw milk sales? The department is adopting this rule))~~ (2) The purpose is to inform consumers about possible harm that may occur from consuming raw milk that contains harmful microorganisms(~~(:~~

~~((4) What purpose will this rule serve? The purpose of this rule is))~~ and to warn purchasers about known hazards associated with the consumption of raw milk so that they may make informed choices about buying these products.

~~((5) What warning label must be on raw milk containers? The))~~ (3) A raw milk container must bear the following labeling: **WARNING:** *This product has not been pasteurized and may contain harmful bacteria. Pregnant women, children, the elderly and persons with lowered resistance to disease have the highest risk of harm from use of this product.*

~~((6) What are the specific requirements for warning labels on raw milk?))~~ (4) The raw milk warning labels must meet the following requirements:

(a) The warning label type size must be consistent with the type size of other required labeling, but not less than one-sixteenth inch in height.

(b) The warning label must be conspicuous and in contrasting color from other labeling.

(c) The warning label must be prominently displayed on the container's principal display panel.

(d) The warning label must be clearly readable.

WSR 19-09-021
PERMANENT RULES
WALLA WALLA
COMMUNITY COLLEGE

[Filed April 9, 2019, 11:47 a.m., effective May 10, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 132T-175 WAC, Public records, amended to clarify procedures and costs regarding the disclosure of public records. This included new definitions; procedures for requesting public records, including electronic records; fees; responsibilities of public records officer; exempt public records; denials of requests; protection of public records; records index; and district address.

Citation of Rules Affected by this Order: Repealing WAC 132T-175-140 and 132T-175-990; and amending WAC 132T-175-010, 132T-175-020, 132T-175-030, 132T-175-040, 132T-175-050, 132T-175-060, 132T-175-070, 132T-175-080, 132T-175-090, 132T-175-100, 132T-175-110, 132T-175-120, 132T-175-130, and 132T-175-150.

Statutory Authority for Adoption: RCW 28B.50.14 [28B.50.140] and chapter 42.56 RCW.

Adopted under notice filed as WSR 18-20-096 on October 2, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 9, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 14, Repealed 2.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 20, 2019.

Jerri Ramsey
Rules Coordinator
Executive Assistant
to the President

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Community College District No. 20 with the provisions of chapter ~~((4; Laws of 1973 (Initiative 276), Disclosure Campaign finances Lobbying Records; and in particular with see~~

tions 25-32 of that act, dealing with public records)) 42.56 RCW, the Public Records Act.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-020 Definitions. (1) **Public records.**

"Public record" indicates any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics. Only records that are required to be retained by the district are included in this definition. This definition does not include records held by volunteers who:

(a) Do not serve in an administrative capacity;

(b) Have not been appointed by the district to a district board, commission, or internship; and

(c) Do not have a supervisory role or delegated district authority.

(2) **Writing.**

"Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, motion pictures, film and video recordings, diskettes, sound recordings, and other documents including existing compilations from which information may be obtained or translated. An email, text, social media posting and database are, therefore, also "writings."

(3) **Bot request.**

"Bot request" is a request for public records that the Community College District No. 20 reasonably believes was automatically generated by a computer program or script.

~~((3))~~ (4) **Community College District No. 20.**

Community College District No. 20 was established pursuant to the Community College Act of 1967. Community College District No. 20 shall ~~((hereinafter))~~ be referred to as the "district." Where appropriate, the term Community College District No. 20 also refers to the staff and employees of the Community College District No. 20.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-030 Description of central and field organization of Community College District No. 20. ~~((+)) Community College District No. 20))~~

The Community College District No. 20 is an institution of higher education organized under RCW 28B.50.040. The administrative offices of the district and its staff are located at 500 Tausick Way, Walla Walla, Washington, on the Walla Walla Community College campus. In addition to its campus in Walla Walla, the district operates a campus in Clarkston, Washington, at: 1470 Bridge Street, Clarkston, Washington. The district also provides educational programs and services to offenders at the Washington state penitentiary in Walla Walla, Washington and Coyote Ridge Corrections Center in Connell, Washington.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-040 Operations and procedures.

Community College District No. 20 is governed by a board of trustees ~~((consisting)).~~ The board of trustees consists of five individuals appointed by the governor ((of the state of Washington and is operated in accordance with the provisions of the Community College Act of 1967 and amendments thereto; and the bylaws, policies and regulations adopted by the board of trustees of Community College District No. 20 and on file in the office of the president of Walla Walla Community College)) to a term of five years as provided in RCW 28B.50.100. The board usually meets once a month in regular session on a date and at a time and place specified by public notice, and at special meetings announced by public notice. On occasion, the board may not meet in a particular calendar month. At such time, the trustees exercise the power and duties granted to the board by RCW 28B.50.140. The day-to-day operation and administration of the district, pursuant to policy established and approved by the board of trustees, is implemented through the office of the district president or designee.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-050 Public records available. All public records of the district, as defined in WAC 132T-175-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided in ~~((section 31, chapter 1, Laws of 1973))~~ RCW 42.56.210 or other statutes and chapter 132T-175 WAC.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-060 Public records officer. (1) The district's public records shall be in the charge of the public records officer designated by the district president. ~~((The person so designated shall be located in the administrative office of the district.))~~ The public records officer shall be responsible for ~~((the following: The))~~; Implementation of the district's rules and regulations regarding release of public records, coordinating the staff of the district in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter ~~((1, Laws of 1973))~~ 42.56 RCW.

(2) Any person wishing to request access to public records of the district, or seeking assistance in making such a request, should contact the public records officer:

Public Records Officer
Walla Walla Community College
500 Tausick Way
Walla Walla, WA 99362
phone: 509-522-2500
email: publicrecords@WWCC.edu

Information is also available at the district's web site at www.wbcc.edu.

(3) The public records officer will oversee compliance with the Public Records Act, but another district staff member may process requests. Therefore, throughout this chapter, references to the public records officer shall mean the public records officer or his/her designee.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the district. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays and days of closure established by the college calendar or by order of the district president.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-080 Requests for public records. ~~((In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:~~

~~(1) A request shall be made in writing upon a form prescribed by the district which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the district's staff, if the public records officer is not available, at the administrative office of the district during customary office hours.)) (1) Any person wishing to inspect or receive copies of public records of the district should make the request in person during the district's customary office hours, or in writing on the district's public records request form, or by letter, or by email addressed to the public records officer. While no official format is required for making a records request, the district recommends that the requestor submit requests using the district provided request form. The request form is available at the office of the public records officer and online at www.wvcc.edu. Regardless of format, the request ~~((shall))~~ must include the following information:~~

- ~~(a) The name of the person requesting the record;~~
- ~~(b) Address of the requestor;~~
- ~~(c) Other contact information, including telephone number and any email address;~~
- ~~(d) Identification of the public records adequate for the public records officer to locate the records; and~~
- ~~(e) The ~~((time of day and))~~ calendar date and time of day on which the request was made(;~~
- ~~(e) The nature of the request;~~
- ~~(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;~~
- ~~(e) If the requested matter is not identifiable by reference to the district's current index, an appropriate description of the record requested)).~~

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer ~~((or staff member to whom the request is made,))~~ to assist the member of the public in appropriately identifying the public record requested.

(3) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or to make a deposit. Charges for copies are provided in a fee schedule available at Walla Walla Community College and at www.wvcc.edu.

(4) The public records officer may accept requests for public records that contain the information in subsection (1) of this section by telephone. If the public records officer accepts such a request, he/she will confirm receipt of the information and the substance of the request in writing.

(5) Upon receipt of a request, the district will assign it a tracking number and log it in.

(6) The public records officer will evaluate the request according to the nature of the request, volume, and availability of requested records.

(7) Acknowledging receipt of request. Following the initial evaluation of the request, and within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying including:

(i) If copies are available on the district's internet web site, provide an internet address and link to the web site to specific records requested;

(ii) If copies are requested and payment of a deposit for the copies, if any, is made or other terms of payment are agreed upon, send the copies to the requestor.

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available (the public records officer may revise the estimate of when records will be available); or

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of time the district will require to respond to the request if it is not clarified.

(i) Such clarification may be requested and provided by telephone and memorialized in writing;

(ii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the district need not respond to it. The district will respond to those portions of a request that are clear.

(d) Deny the request.

(8) Consequences of failure to respond. If the district does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the public records officer to determine the reason for failure to respond.

(9) Protecting the rights of others. In the event that the requested records contain information that may affect the rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible

for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(10) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the district believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief written explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(11) Inspection of records.

(a) Consistent with other demands, the district shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the district to copy.

(b) The requestor must claim or review the assembled records within thirty days of the district's notification that the records are available for inspection or copying. The district will notify the requestor in writing of this requirement and inform the requestor to contact the district to make arrangements to review or claim the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period, or make other arrangements, the district may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(12) Providing copies of records. After inspection is complete, the public records officer will make the requested copies or arrange for copying. If the district charges for copies, the requestor must pay for the copies.

(13) Providing records in installments. When the request is for a large number of records, the public records officer will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer may stop searching for the remaining records and close the request.

(14) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer will indicate that the district has completed a reasonable search for the requested records and made any located nonexempt records available for inspection.

(15) Closing withdrawn or abandoned request. When the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to fulfill his or her obligations to inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for requested copies, the public records officer will close the request.

Unless the district has already indicated in previous correspondence that the request would be closed under the above circumstances, the district will notify the requestor that it has closed the request.

(16) Later discovered documents. If, after the district has informed the requestor that it has provided all available records, the district becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

(17) Electronic records. The process for requesting electronic public records is the same as that for requesting paper public records. Costs for providing electronic records are governed by RCW 42.56.120 and 42.56.130 and included in the district fee schedule.

(18) Bot requests. The district may deny a bot request that is one of multiple requests from the requestor to the district within a twenty-four-hour period, if the district establishes that responding to the multiple requests would cause excessive interference with other essential functions of the district.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-090 ((Copying)) Costs of providing copies of public records. (1) No fee ((shall)) will be charged for the inspection of public records. ((The district shall charge a fee of five cents per page of copy for providing copies of public records and for use of the district copy equipment. This charge is the amount necessary to reimburse the district for its actual costs incident to such copying.))

(2) The district is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons:

(a) The district does not have the resources to conduct a study to determine actual copying costs for all of its records;

(b) To conduct such a study would interfere with other essential functions; and

(c) Through the legislative process, the public and requestors have commented on and have been informed of authorized fees and costs for providing photocopies or electronically produced copies of district public records, as authorized in RCW 42.56.120 and as published in the district's fee schedule.

(3) **Fee schedule.** The fee schedule is available at the Walla Walla Community College office of the public records officer and on the district web site at www.wbcc.edu.

(a) The district may also use any other method authorized under RCW 42.56.120(4). The district may enter into an agreement with a requestor that provides an alternative fee arrangement to the charges authorized in this section, or in response to a voluminous or frequently occurring request.

(b) The district may waive charges assessed for records when the public records officer determines that collecting a fee is not cost-effective.

(c) The district will not impose copying charges for access to or downloading of records that the district routinely posts on its public internet web site prior to receipt of a

request unless the requestor has specifically requested that the district provide copies of records through other means.

(4) **Processing payments.** Before beginning to make copies, the public records officer may require a deposit of up to ten percent of the estimated costs of copying all records selected by the requestor. The public records officer may also require the payment of the remainder of the copying costs before providing all records, or the payment of the costs of copying an installment before providing the installment. The district will not charge sales tax when making copies of public records.

(5) **Costs of mailing.** The district may also charge actual costs of mailing, including the cost of the shipping container.

(6) **Payment.** Payment may be made by exact cash, check, credit card, debit card, or money order to Walla Walla Community College.

(7) The district will close a request when a requestor fails to make payment by the payment due date in the manner prescribed for records, an installment of records, or a required deposit.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-100 Exemptions. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. The district reserves the right to determine that a public record, or any portion thereof, requested in accordance with ~~((the procedures outlined in))~~ WAC 132T-175-080 is exempt under the ~~((provisions of section 31, chapter 1, Laws of 1973.~~

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the district reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing:

~~(3)) Public Records Act.~~

(2) Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the district for inspection and copying. This is not an exhaustive list as numerous exemptions exist due to an academic setting. The district's failure to list an exemption here shall not affect the efficacy of any exemption.

(a) RCW 5.60.060 Who is disqualified—Privileged communications.

(b) 20 U.S.C. 1232g Family Educational Rights and Privacy Act (FERPA).

(c) 42 U.S.C. 405 (c)(2)(vii)(1) Social Security numbers.

(d) 45 C.F.R. 16-0164 HIPAA privacy rule.

(e) Chapter 10.97 RCW, regarding criminal history information.

(3) The district is prohibited by RCW 42.56.070 from disclosing lists of individuals for commercial purposes.

(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption

authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-110 Review of denials of public records requests. (1) Any person who objects to the denial, or partial denial, of a request for a public record may petition ~~((for prompt review of such decisions by tendering a written request))~~ in writing (including email) to the public records officer for review of that decision. The written request shall ~~((specifically refer to))~~ include a copy of or reasonably identify the written statement by the public records officer ~~((or other staff member which constituted or accompanied the denial))~~ denying the request.

(2) Immediately after receiving a written request for review of a decision denying access to a public record, the public records officer ~~((or other staff member denying the request))~~ shall refer ~~((it))~~ the written request and any other relevant information to the district president ~~((of the college))~~ or designee. The president or designee shall immediately consider the matter and either affirm or reverse such denial ~~((or call a special meeting of the district as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.~~

~~(3) Administrative remedies shall not be considered exhausted until the district has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first))~~ within two business days following receipt of the written request for review or within such other time frame as the district and the requestor mutually agree to.

(3) Pursuant to RCW 42.56.530, if the district denies a requestor access to public records because it claims the record in whole or in part is exempt, the requestor may make a request to the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days following the initial denial regardless of any internal administrative appeal.

AMENDATORY SECTION (Amending Order 75-3, filed 2/27/75)

WAC 132T-175-120 Protection of public records. ~~((That the location of the public records officer appointed pursuant to WAC 132T-175-060 shall be in the office of the business manager. That the public records officer shall establish a central district index which shall be the district's master index to be coordinated with subsidiary indexes established in each major administrative area of the college, specifically:~~

~~(1) The office of the secretary to the board of trustees of the district (which is the office of the president of Walla Walla Community College);~~

~~(2) The office of the president of Walla Walla Community College;~~

~~(3) The office of the dean of instruction;~~

(4) The office of the dean of student services;

(5) The business office; and/or

(6) Any subdivision of each major administrative area mutually agreed upon by the administrator of the area involved and the public records officer.

That upon receiving requests for public records in the manner prescribed in WAC 132T-175-080, it shall be the duty of the public records officer to immediately act upon the request. If it is determined the item requested is a public record as defined in WAC 132T-175-020 it shall be the duty of the public records officer to locate the public record in the office in which it is filed and make it available for inspection. That should, in the judgment of the public records officer, there be a possibility of the destruction of the public record, then the public records officer shall make available a copy of the record.

That upon request the public records officer shall make available copies of public records in accordance with WAC 132T-175-090. (1) It is the policy of the district, in order to protect public records from damage or disorganization and to prevent excessive interference with other essential functions of the district, that original copies of records are not to be taken from the district designated area of custody or storage. Any inspection or copying of records subject to this chapter is to occur at places designated by the public records officer. The fullest assistance to inquiries and timely action on requests for information, consistent with protection of the public records, is to be supplied.

(2) A variety of records are available on the district web site at www.wvcc.edu. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-130 Records index. (1) Index.

The district ~~((shall))~~ will make available ~~((to all persons a current))~~ an index which provides identifying information as to ~~((the following))~~ records ~~((issued, adopted or promulgated since its inception:~~

(a) ~~Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;~~

(b) ~~Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;~~

(c) ~~Administrative))~~ maintained in accordance with its records retention schedule. These include, but are not limited to, the following:

(a) Board of trustees minutes and reports;

(b) Financial records and budgets;

(c) Staff manuals and instructions to staff that affect a member of the public;

(d) ~~((Planning policies and goals, and interim and final planning decisions;~~

(e) ~~Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and~~

~~((Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.))~~ Strategic plan;

(e) Facility master plans;

(f) Policies and procedures;

(g) Accreditation reports, self-studies, and related correspondence;

(h) Integrated post-secondary education data system (IPEDS) data;

(i) Cost of attendance; and

(j) Clery Act compliance.

(2) Availability.

The ~~((current))~~ index ~~((promulgated by the district shall))~~ and related records retention schedule will be available ~~((to all persons))~~ under the same rules ~~((and on the same conditions as are))~~ as applied to public records ~~((available for inspection)).~~

AMENDATORY SECTION (Amending Order 73-7, filed 3/23/73)

WAC 132T-175-150 Adoption of form. The district ~~((hereby))~~ shall adopt ~~((s))~~ a form for use by ~~((all))~~ persons requesting inspection and/or copying or copies of its records ~~((, the form attached hereto as Appendix A, entitled "Request for public record.")).~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132T-175-140 District's address.

WAC 132T-175-990 Appendix A—Request for public record.

WSR 19-09-033

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed April 10, 2019, 3:10 p.m., effective May 11, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-101D-0025 and repealing WAC 388-101D-0120 to remove requirements for residential service providers to schedule within contracted hours and obtain approval of staff coverage schedules. These administrative activities are no longer necessary as part of the tiered rates system established under ESSB 6032 (2018) and approved by the Centers for Medicare and Medicaid Services (CMS).

Citation of Rules Affected by this Order: Repealing WAC 388-101D-0120; and amending WAC 388-101D-0025.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.120, ESSB 6032 (2018).

Adopted under notice filed as WSR 19-05-043 on February 14, 2019.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 1.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 1.

Date Adopted: April 9, 2019.

Cheryl Strange
Secretary

AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

WAC 388-101D-0025 Service provider responsibilities. (1) Service providers must meet the requirements of:

- (a) This chapter;
- (b) Each contract and statement of work entered into with the department;
- (c) Each client's individual support plan when the individual support plan identifies the service provider as responsible; and
 - (d) Each client's individual instruction and support plan.
- (2) The service provider must:
 - (a) Have a designated administrator and notify the department when there is a change in administrator;
 - (b) Ensure that clients have immediate access to staff, or the means to contact staff, at all times;
 - (c) Provide adequate staff (~~within contracted hours to administer the program and~~) to meet the needs of clients as identified in their person-centered service plans;
 - (d) Not routinely involve clients in the unpaid instruction and support of other clients;
 - (e) Not involve clients receiving crisis diversion services in the instruction and support of other clients; and
 - (f) Retain all records and other material related to the residential services contract for six years after expiration of the contract.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-101D-0120 Approval of staff-coverage schedules.

WSR 19-09-040
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed April 11, 2019, 3:28 p.m., effective May 12, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose:

- Clarify and update the construction permitting (new source review) program regulations to reduce regulatory burden and focus on permitting projects where our permits provide significant air quality benefit (NWCAA Sections 300-305).
- Modify the registration program to improve transparency and equity (NWCAA Sections 320-321).
- Remove the ambient air quality standards from the regulation in favor of the state rule that already applies statewide (NWCAA Sections 400-428).
- Clarify and update the sulfur dioxide requirements (monitoring, etc.) at certain sources to include only those requirements that add air quality benefit in the current conditions (NWCAA Section 460).
- Modify a few definitions to clarify applicability and to match the state rule (NWCAA Section 200).
- Update the adoption-by-reference date to allow us to implement the most recent version of the referenced state and federal rules (NWCAA Section 104).

Citation of Rules Affected by this Order: Repealing Sections 301, 401, 402, 403, 410, 420, 422, 424, 426, and 428 of the Regulation of NWCAA; and amending Sections 104, 200, 300, 303, 305, 320, 321, 400, and 460 of the Regulation of NWCAA.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 19-02-040 on December 26, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 11, 2019.

Mark Buford
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 19-11 issue of the Register.

WSR 19-09-041
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed April 11, 2019, 3:28 p.m., effective May 12, 2019]

Effective Date of Rule: Thirty-one days after filing.
Purpose:

- Renumber and clarify the section that applies to replacement or substantial alteration of control technology (renumbered from NWCAA 300.13 to NWCAA 300.25).
- Incorporate a section to clarify requirements applicable to nonroad engines (new NWCAA Section 304).

Citation of Rules Affected by this Order: New Section 304 of the Regulation of NWCAA; and amending Section 300 of the Regulation of NWCAA.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 19-06-089 on March 6, 2019.

Changes Other than Editing from Proposed to Adopted Version:

- NWCAA 304.4: Deleted "Upon a nonroad engine surpassing 12 consecutive months in one location, NWCAA may require the owner or operator to obtain an order of approval for such nonroad engine in accordance with NWCAA 300.7 through 300.13." because it created confusion and was only advisory not binding.
- NWCAA 304.4: Changed "onsite" to "at the facility" to avoid confusion."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 11, 2019.

Mark Buford
Executive Director

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

...

~~((300.13 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.~~

~~a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.~~

~~b) For projects not otherwise reviewable under NWCAA Section 300, the NWCAA may:~~

~~1) Require that the owner or operator employ RACT for the affected emission unit;~~

~~2) Prescribe reasonable operation and maintenance conditions for the control equipment; and~~

~~3) Prescribe other requirements as authorized by chapter 70.94 RCW.~~

~~e) Within thirty (30) days of receipt of a Notice of Construction application under this section the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty (30) days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.~~

~~d) Construction shall not "commence," as defined in NWCAA Section 200, on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within thirty (30) days of receipt of a complete Notice of Construction application.~~

~~e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date:))~~

...

300.25 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

(A) Any person proposing to replace or substantially alter the emission control technology installed on an existing

stationary source or emissions unit shall file a Notice of Construction application with the NWCAA. Replacement or substantial alteration of control technology does not include routine maintenance, repair, or similar parts replacement.

(B) For emissions units and associated pollutants not otherwise reviewable under NWCAA Section 300, the NWCAA may:

(1) Require that the owner or operator employ RACT for the affected emissions unit;

(2) Prescribe reasonable operation and maintenance conditions for the control equipment; and

(3) Prescribe other requirements as authorized by chapter 70.94 RCW.

(C) Within 30 days after receiving a Notice of Construction application under this subsection, the NWCAA shall either notify the applicant in writing that the application is complete or notify the applicant in writing of the additional information necessary to complete the application. Within 30 days of receipt of a complete Notice of Construction application under this section the NWCAA shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

(D) An owner or operator shall not begin actual construction on a project subject to review under this section until the NWCAA issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA takes no action within 30 days of receipt of a complete Notice of Construction application.

(E) Approval to replace or substantially alter emission control technology shall become invalid if the owner or operator has not begun actual construction within 18 months of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The NWCAA may extend the 18-month approval period upon a satisfactory showing that an extension is justified. No single extension of time shall be longer than 18 months. The cumulative period between initial permit issuance and the end of any approved time extensions shall not exceed 54 months. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must begin actual construction within 18 months of the approved commencement date.

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, July 11, 1973, August 9, 1978, October 12, 1989, February 14, 1990, April 14, 1993, November 12, 1998, November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 13, 2015, April 11, 2019

NEW SECTION

SECTION 304 - NONROAD ENGINES

304.1 This section applies to any nonroad engine as defined in NWCAA Section 200, except for:

(A) Any nonroad engine that is:

(1) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function; or

(2) In or on a piece of equipment that is intended to be propelled while performing its function.

(B) Nonroad engines being stored in work centers, garages, or engine pool sites prior to being dispatched to the field for use and that do not provide back-up power at the work center, garage, or engine pool. Such engines may be operated at these facilities only for the purpose of engine maintenance, testing, and repair.

304.2 Nonroad engines are not subject to:

(A) New source review.

(B) Control technology determinations.

(C) Emission limits set by the state implementation plan (SIP).

(D) Chapter 173-460 WAC.

304.3 All nonroad engines as specified in this section shall use ultra low sulfur diesel or ultra low sulfur bio-diesel (a sulfur content of 15 ppm or 0.0015% sulfur by weight or less), gasoline, natural gas, propane, liquefied petroleum gas (LPG), hydrogen, ethanol, methanol, or liquefied/compressed natural gas (LNG/CNG). A facility that receives deliveries of only ultra low sulfur diesel or ultra low sulfur bio-diesel is deemed to be compliant with this fuel standard.

304.4 For each nonroad engine as specified in this section greater than 500 bhp: The owner or operator shall notify NWCAA within 15 calendar days prior to surpassing the engine remaining at a facility for 12 consecutive months. This notification shall include the make, model, serial number, rating, fuel type, date the engine was brought to the facility, and engine function or purpose.

Passed: April 11, 2019

WSR 19-09-045

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 18-08—Filed April 12, 2019, 9:45 a.m., effective May 13, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 173-430 WAC, Agricultural burning, this rule implements the agricultural burning program in Washington.

These amendments to WAC 173-430-041 and 173-430-080:

- Address inadequacies raised in the Washington state auditor's office management letter dated October 24, 2016.
- Incorporate the most current agriculture burning fee schedule and permit fee distribution to avoid confusion.
- Identify and, where appropriate, make needed edits in chapter 173-430 WAC to make updates, technical clarifications, correct errors, and improve readability.

Citation of Rules Affected by this Order: Amending WAC 173-430-041 and 173-430-080.

Statutory Authority for Adoption: Chapter 70.94 RCW, Washington Clean Air Act.

Adopted under notice filed as WSR 18-24-098 on December 4, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 12, 2019.

Maia D. Bellon
Director

AMENDATORY SECTION (Amending WSR 10-23-049, filed 11/10/10, effective 12/11/10)

WAC 173-430-041 Agricultural burning fees. (1) RCW 70.94.6528 provides the following maximum fees for agricultural burning:

Field burning	\$3.75 per acre
Pile burning	\$1.00 per ton

(2) RCW 70.94.6528(5) authorizes the agricultural burning practices and research task force (task force) to determine the level of the fee.

(a) **2011 fee schedule.** Fees starting in the calendar year 2011 are found in subsection (5) of this section.

(b) **Establishing new fee schedules.** Ecology and the task force will examine the fee schedule using the process in WAC 173-430-042.

(3) **Calculating the fee.** The fee consists of a minimum fee plus any applicable variable fee.

(a) **Minimum fee.** The minimum fee includes burning of the base number of acres or tons published in the fee schedule.

(b) **Variable fee.** Field burning and pile burning permits allowing the farmer to burn more acres or tons than the base included in the minimum fee require an additional per acre or per ton fee.

(c) The following table shows which types of burning have a variable fee.

Type of Burning	Variable Fee
Field Burning	Fee applied for each additional acre.
Spot Burning	None - Spot burn permits must not exceed the base amount of acres published in the fee schedule.

Type of Burning	Variable Fee
Pile Burning	Fee applied for each additional ton.

(4) **Fee components.** The permit fee helps off-set the cost of administering and enforcing the agricultural burning permit program. The fee consists of three components:

- Permitting program administration;
- Smoke management administration; and
- Research.

(a) **Permitting program administration.** The permitting authority may set the fee as an amount no more than the amount published in the fee schedule.

(i) The local air authority or delegated permitting authority must establish this portion of the fee by an appropriate, public process such as a local rule, ordinance, or resolution.

(ii) In areas of the state where ecology has permitting authority and has not delegated that authority, ecology will charge the following for local permitting program administration:

(A) Starting in 2011, the amount listed in subsection (6) of this section.

(B) For subsequent fee changes, the amount published in the fee schedule. Ecology will publish the fee schedule using the process in WAC 173-430-042.

(b) **Smoke management administration.** This portion of the fee will:

(i) Help off-set the statewide or regionwide costs of the agricultural burning program.

(ii) Help fund the education and smoke management activities of ecology or the local air authority.

(c) **Research fund.** The task force will determine the research portion of the fee based on applied research needs, regional needs, and the research fund budget.

(5) **Permit fee schedule.** Table 1 shows the permit fee schedule (~~(, starting in the calendar year 2011)~~). This fee schedule will remain in place until ecology and the task force adjust it using the process in WAC 173-430-042. Please see (~~(http://www.ecy.wa.gov)~~) <http://www.ecology.wa.gov>, contact ecology, or contact your local air authority for the most current fee schedule or fee distribution.

Table 1
Agricultural Burning Fee Schedule(~~(, Starting Calendar Year 2011)~~)

Fee	Minimum Fee	Variable Fee
Field Burning	\$ ((30)) 37.50 for the first 10 acres	\$ ((3.00)) 3.75 for each additional acre
Spot Burning	\$ ((30)) 37.50 for 10 acres or less	None
Pile Burning	\$80 for ((the first 100)) piles up to 80 tons	\$ ((0.50)) 1.00 for each additional ton

Note: These numbers reflect the most recent revision of the agricultural fee schedule, which occurred on July 1, 2012, per WAC 173-430-042.

(6) **Permit fee distribution.** Table 2 shows the permit fee distribution (~~(starting in the calendar year 2011)~~). This distribution will remain in place until ecology and the task force adjust it using the process in WAC 173-430-042. Please

see (~~(http://www.ecy.wa.gov)~~) <http://www.ecology.wa.gov>, contact ecology, or contact your local air authority for the most current fee schedule or fee distribution.

Table 2
Agricultural Burning Fee Distribution

Fee	Permitting Authority Administration	Research	Smoke Management
Field Burning Minimum Fee	\$15.00	\$0	\$(15.00) <u>22.50</u>
Field Burning Variable Fee	\$1.25 per acre	\$0.50 per acre	\$(1.25) <u>2.00</u> per acre
Spot Burning Fee	\$15.00	\$0	\$(15.00) <u>22.50</u>
Pile Burning Minimum Fee	\$16.00	\$16.00	\$48.00
Pile Burning Variable Fee	\$0.10 per ton	\$0.10 per ton	\$(0.30) <u>0.80</u> per ton

Note: These numbers reflect the most recent revision of the agricultural burning fee distribution schedule, which occurred on July 1, 2012, per WAC 173-430-042.

(7) **Refunds.** The farmer may receive a refund. The farmer may only receive a refund for the portion of the variable fee paid for the acres or tons not burned.

(a) The permitting authority may keep the minimum fee as reimbursement for the costs of processing the permit application.

(b) The permitting authority will not issue refunds of less than twenty-five dollars due to the cost of processing refunds.

AMENDATORY SECTION (Amending WSR 10-23-049, filed 11/10/10, effective 12/11/10)

WAC 173-430-080 Responsibilities of a permitting authority. (1) The permitting authority is ecology or its delegate or a local air authority with jurisdiction or its delegate. The permitting authority must establish and administer an agricultural burning permit system. The minimum responsibilities are described in this section.

(2) The permitting authority must act on a complete application (as determined by ecology or a local air authority with jurisdiction) within seven days of receipt.

(a) Local air authorities are required to use application templates and permit templates supplied by ecology. Ecology delegated authorities are required to use applications and permits supplied by ecology.

(b) A map must accompany all permit applications.

(i) The map must accurately depict the topography of the area where the requested burn would take place and include roads, and landmarks.

(ii) The map must accurately show affected acreage to be burned.

(iii) The map must show the position of the field within each section the field occupies, down to the 1/4 - 1/4 section. All four border lines of each section must be outlined with the section number, township, and range clearly marked.

(c) The permitting authority must evaluate the application and approve or deny all or part of it.

(d) The permitting authority must evaluate the application to determine if the requested burning is within the general or crop-specific best management practices.

(e) If the application is denied, the reason must be stated.

(3) Permitting authorities must issue permits where appropriate on complete applications. Delegated permitting authorities may issue permits when agreed to as part of the delegation order.

(4) Permitting authorities must determine day-to-day burning restrictions near populated areas and arrange for dissemination of the results. Delegated permitting authorities must arrange for assisting in dissemination of results.

(5) The permitting authority or its delegate is responsible for responding to agricultural burning complaints.

(6) The permitting authority must collect the fee, determine the local administration portion of the fee, and issue refunds.

(a) Permitting authorities must issue a permit fee refund for permitted acres not burned on confirmation by the permitting authority. The refund request deadline must be included on the permits.

(b) Local air authorities and delegated permitting authorities must formally adopt the local administration portion of the fee through rule, regulation, ordinance, or resolution.

(7) Delegated permitting authorities must provide ecology with copies of all permits and supporting documentation and transfer the research and smoke management administration portion of the fee to ecology.

(a) Local air authorities and delegated permitting authorities must transfer funds twice a year by (~~(July 15 and January 15)~~) September 30th and March 31st.

(b) Local air authorities and delegated permitting authorities must provide ecology copies of all permits, applications with supporting documentation, maps, and postburn reports. All spring (January - June) permits need to be provided by (~~(July 15th)~~) September 30th and all fall (July - December) permits by (~~(January 15th)~~) March 31st.

(c) Ecology must deposit all agricultural burning permit fees in the air pollution control account. Permitting authorities may deduct the local administration portion before forwarding the remainder to ecology.

(8) The permitting authority must coordinate compliance. Violations are subject to the remedies of chapter 70.94 RCW, Washington Clean Air Act.

(9) The permitting authority or its delegate must require a postburn report for all permits, except for spot burn permits.

(10) The permitting authority or its delegate must use the web-based database for issuing all agricultural burning permits.

(a) Local air authorities and its delegates (~~(must)~~) may make arrangements with ecology to enter information into the web-based database.

(b) (~~Ecology delegated permitting authorities must attend a minimum of one database training per calendar year or as provided by~~) Ecology shall provide training as needed and maintain records for five years documenting each training.

WSR 19-09-052

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed April 12, 2019, 3:36 p.m., effective May 13, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Washington state legislature provided funding to increase the medication assisted treatment rate for opioid use disorder to match the medicare rate in order to encourage more providers to treat patients with opioid use disorder. This represents an exception to current payment methodology and needs to be described in the administrative code.

Citation of Rules Affected by this Order: New WAC 182-531-2040; and amending WAC 182-531-0050.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, ESSB 6032, 2017-2019 Omnibus Operating Budget, 2018 supplemental.

Adopted under notice filed as WSR 19-06-079 on March 5, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Date Adopted: April 12, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-21-040, filed 10/12/17, effective 11/12/17)

WAC 182-531-0050 Physician-related services definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC, apply to this chapter.

"Acquisition cost" - The cost of an item excluding shipping, handling, and any applicable taxes.

"Acute care" - Care provided for clients who are not medically stable. These clients require frequent monitoring by a health care professional in order to maintain their health status. See also WAC 246-335-015.

"Acute physical medicine and rehabilitation (PM&R)" - A comprehensive inpatient and rehabilitative program coordinated by a multidisciplinary team at an agency-approved rehabilitation facility. The program provides twenty-four hour specialized nursing services and an intense level of specialized therapy (speech, physical, and occupational) for a diagnostic category for which the client shows significant potential for functional improvement (see WAC 182-550-2501).

"Add-on procedure(s)" - Secondary procedure(s) that are performed in addition to another procedure.

"Admitting diagnosis" - The medical condition responsible for a hospital admission, as defined by the ICD diagnostic code.

"Advanced registered nurse practitioner (ARNP)" - A registered nurse prepared in a formal educational program to assume an expanded health services provider role in accordance with WAC 246-840-300 and 246-840-305.

"Allowed charges" - The maximum amount reimbursed for any procedure that is allowed by the agency.

"Anesthesia technical advisory group (ATAG)" - An advisory group representing anesthesiologists who are affected by the implementation of the anesthesiology fee schedule.

"Bariatric surgery" - Any surgical procedure, whether open or by laparoscope, which reduces the size of the stomach with or without bypassing a portion of the small intestine and whose primary purpose is the reduction of body weight in an obese individual.

"Base anesthesia units (BAU)" - A number of anesthesia units assigned to a surgical procedure that includes the usual preoperative, intraoperative, and postoperative visits. This includes the administration of fluids and/or blood incident to the anesthesia care, and interpretation of noninvasive monitoring by the anesthesiologist.

"Bundled services" - Services integral to the major procedure that are included in the fee for the major procedure. Bundled services are not reimbursed separately.

"Bundled supplies" - Supplies that are considered to be included in the practice expense RVU of the medical or surgical service of which they are an integral part.

"By report (BR)," see WAC 182-500-0015.

"Call" - A face-to-face encounter between the client and the provider resulting in the provision of services to the client.

"Cast material maximum allowable fee" - A reimbursement amount based on the average cost among suppliers for one roll of cast material.

"Center of excellence (COE)" - A hospital, medical center, or other health care provider that meets or exceeds standards set by the agency for specific treatments or specialty care.

"Centers for Medicare and Medicaid Services (CMS)," see WAC 182-500-0020.

"Certified registered nurse anesthetist (CRNA)" - An advanced registered nurse practitioner (ARNP) with formal training in anesthesia who meets all state and national criteria for certification. The American Association of Nurse Anesthetists specifies the national certification and scope of practice.

"Children's health insurance plan (CHIP)," see chapter 182-542 WAC.

"Clinical Laboratory Improvement Amendment (CLIA)" - Regulations from the U.S. Department of Health and Human Services that require all laboratory testing sites to have either a CLIA registration or a CLIA certificate of waiver in order to legally perform testing anywhere in the U.S.

"Conversion factors" - Dollar amounts the agency uses to calculate the maximum allowable fee for physician-related services.

"Covered service" - A service that is within the scope of the eligible client's medical care program, subject to the limitations in this chapter and other published WAC.

"CPT," see "current procedural terminology."

"Critical care services" - Physician services for the care of critically ill or injured clients. A critical illness or injury acutely impairs one or more vital organ systems such that the client's survival is jeopardized. Critical care is given in a critical care area, such as the coronary care unit, intensive care unit, respiratory care unit, or the emergency care facility.

"Current procedural terminology (CPT)" - A systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians and other practitioners who provide physician-related services. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Emergency medical condition(s)," see WAC 182-500-0030.

"Emergency services" - Medical services required by and provided to a patient experiencing an emergency medical condition.

"Evaluation and management (E&M) codes" - Procedure codes that categorize physician services by type of service, place of service, and patient status.

"Expedited prior authorization" - The process of obtaining authorization that must be used for selected services, in which providers use a set of numeric codes to indicate to the agency which acceptable indications, conditions, diagnoses, and/or criteria are applicable to a particular request for services.

"Experimental" - A term to describe a health care service that lacks sufficient scientific evidence of safety and effectiveness. A service is not "experimental" if the service:

((+)) (a) Is generally accepted by the medical profession as effective and appropriate; and

((2)) (b) Has been approved by the federal Food and Drug Administration or other requisite government body, if such approval is required.

"Federally approved hemophilia treatment center" - A hemophilia treatment center (HTC) that:

((+)) (a) Receives funding from the U.S. Department of Health and Human Services, Maternal and Child Health Bureau National Hemophilia Program;

((2)) (b) Is qualified to participate in 340B discount purchasing as an HTC;

((3)) (c) Has a U.S. Center for Disease Control (CDC) and prevention surveillance site identification number and is listed in the HTC directory on the CDC web site;

((4)) (d) Is recognized by the Federal Regional Hemophilia Network that includes Washington state; and

((5)) (e) Is a direct care provider offering comprehensive hemophilia care consistent with treatment recommendations set by the Medical and Scientific Advisory Council (MASAC) of the National Hemophilia Foundation in their standards and criteria for the care of persons with congenital bleeding disorders.

"Fee-for-service," see WAC 182-500-0035.

"Flat fee" - The maximum allowable fee established by the agency for a service or item that does not have a relative value unit (RVU) or has an RVU that is not appropriate.

"Geographic practice cost index (GPCI)" - As defined by medicare, means a medicare adjustment factor that includes local geographic area estimates of how hard the provider has to work (work effort), what the practice expenses are, and what malpractice costs are. The GPCI reflects one-fourth the difference between the area average and the national average.

"Global surgery reimbursement," see WAC 182-531-1700.

"HCPCS Level II" - Health care common procedure coding system, a coding system established by Centers for Medicare and Medicaid Services (CMS) to define services and procedures not included in CPT.

"Health care financing administration common procedure coding system (HCPCS)" - The name used for the Centers for Medicare and Medicaid Services (formerly known as the Health Care Financing Administration) codes made up of CPT and HCPCS level II codes.

"Health care team" - A group of health care providers involved in the care of a client.

"Hospice" - A medically directed, interdisciplinary program of palliative services which is provided under arrangement with a Title XVIII Washington licensed and certified Washington state hospice for terminally ill clients and the clients' families.

"ICD," see "International Classification of Diseases."

"Informed consent" - That an individual consents to a procedure after the provider who obtained a properly completed consent form has done all of the following:

((+)) (a) Disclosed and discussed the client's diagnosis;

((and

(2))

(b) Offered the client an opportunity to ask questions about the procedure and to request information in writing;

((and

~~(3))~~

~~(c)~~ Given the client a copy of the consent form; ~~(and~~

~~(4))~~

~~(d)~~ Communicated effectively using any language interpretation or special communication device necessary per 42 C.F.R. Chapter IV 441.257; and

~~((5))~~ ~~(e)~~ Given the client oral information about all of the following:

~~((a))~~ ~~(i)~~ The client's right to not obtain the procedure, including potential risks, benefits, and the consequences of not obtaining the procedure; ~~(and~~

~~(b))~~

~~(ii)~~ Alternatives to the procedure including potential risks, benefits, and consequences; and

~~((c))~~ ~~(iii)~~ The procedure itself, including potential risks, benefits, and consequences.

"Inpatient hospital admission" - An admission to a hospital that is limited to medically necessary care based on an evaluation of the client using objective clinical indicators, assessment, monitoring, and therapeutic service required to best manage the client's illness or injury, and that is documented in the client's medical record.

"International Classification of Diseases (ICD)" - The systematic listing that transforms verbal descriptions of diseases, injuries, conditions, and procedures into numerical or alphanumerical designations (coding).

"Investigational" - A term to describe a health care service that lacks sufficient scientific evidence of safety and effectiveness for a particular condition. A service is not "investigational" if the service:

~~((1))~~ ~~(a)~~ Is generally accepted by the medical professional as effective and appropriate for the condition in question; or

~~((2))~~ ~~(b)~~ Is supported by an overall balance of objective scientific evidence, that examines the potential risks and potential benefits and demonstrates the proposed service to be of greater overall benefit to the client in the particular circumstance than another generally available service.

"Life support" - Mechanical systems, such as ventilators or heart-lung respirators, which are used to supplement or take the place of the normal autonomic functions of a living person.

"Limitation extension," see WAC 182-501-0169.

"Long-acting reversible contraceptive (LARC)" - Subdermal implants and intrauterine devices (IUDs).

"Maximum allowable fee" - The maximum dollar amount that the agency will reimburse a provider for specific services, supplies, and equipment.

"Medically necessary," see WAC 182-500-0070.

"Medication assisted treatment (MAT)" - The use of Food and Drug Administration-approved medications that have published evidence of effectiveness, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

"Medicare clinical diagnostic laboratory fee schedule" - The fee schedule used by Medicare to reimburse for clinical diagnostic laboratory procedures in the state of Washington.

"Medicare physician fee schedule database (MPFSDB)" - The official CMS publication of the Medicare policies and RVUs for the RBRVS reimbursement program.

"Medicare program fee schedule for physician services (MPFSPS)" - The official CMS publication of the Medicare fees for physician services.

"Mentally incompetent" - A client who has been declared mentally incompetent by a federal, state, or local court.

"Modifier" - A two-digit alphabetic and/or numeric identifier that is added to the procedure code to indicate the type of service performed. The modifier provides the means by which the reporting physician can describe or indicate that a performed service or procedure has been altered by some specific circumstance but not changed in its definition or code. The modifier can affect payment or be used for information only. Modifiers are listed in fee schedules.

"Outpatient," see WAC 182-500-0080.

"Peer-reviewed medical literature" - A research study, report, or findings regarding a medical treatment that is published in one or more reputable professional journals after being critically reviewed by appropriately credentialed experts for scientific validity, safety, and effectiveness.

"Physician care plan" - A written plan of medically necessary treatment that is established by and periodically reviewed and signed by a physician. The plan describes the medically necessary services to be provided by a home health agency, a hospice agency, or a nursing facility.

"Physician standby" - Physician attendance without direct face-to-face client contact and which does not involve provision of care or services.

"Physician's current procedural terminology," see "current procedural terminology (CPT)."

"PM&R," see acute physical medicine and rehabilitation.

"Podiatric service" - The diagnosis and medical, surgical, mechanical, manipulative, and electrical treatments of ailments of the foot and ankle.

"Point-of-sale (POS) actual acquisition cost (AAC)" - The agency determined rate paid to pharmacies through the POS system, which is intended to reflect pharmacy providers' actual acquisition cost.

"Pound indicator (#)" - A symbol (#) indicating a CPT procedure code listed in the agency's fee schedules that is not routinely covered.

"Preventive" - Medical practices that include counseling, anticipatory guidance, risk factor reduction interventions, and the ordering of appropriate laboratory and diagnostic procedures intended to help a client avoid or reduce the risk or incidence of illness or injury.

"Prior authorization," see WAC 182-500-0085.

"Professional component" - The part of a procedure or service that relies on the provider's professional skill or training, or the part of that reimbursement that recognizes the provider's cognitive skill.

"Prognosis" - The probable outcome of a client's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the client's probable life span as a result of the illness.

"Prolonged services" - Face-to-face client services furnished by a provider, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services. The time counted toward payment for prolonged E&M services includes only face-to-face contact between the provider and the client, even if the service was not continuous.

"Provider," see WAC 182-500-0085.

"Radioallergosorbent test" or "RAST" - A blood test for specific allergies.

"RBRVS," see resource based relative value scale.

"RBRVS RVU" - A measure of the resources required to perform an individual service or intervention. It is set by medicare based on three components - Physician work, practice cost, and malpractice expense. Practice cost varies depending on the place of service.

"Reimbursement" - Payment to a provider or other agency-approved entity who bills according to the provisions in WAC 182-502-0100.

"Reimbursement steering committee (RSC)" - An interagency work group that establishes and maintains RBRVS physician fee schedules and other payment and purchasing systems utilized by the agency and the department of labor and industries.

"Relative value guide (RVG)" - A system used by the American Society of Anesthesiologists for determining base anesthesia units (BAUs).

"Relative value unit (RVU)" - A unit that is based on the resources required to perform an individual service or intervention.

"Resource based relative value scale (RBRVS)" - A scale that measures the relative value of a medical service or intervention, based on the amount of physician resources involved.

"RSC RVU" - A unit established by the RSC for a procedure that does not have an established RBRVS RVU or has an RBRVS RVU deemed by the RSC as not appropriate for the service.

"RVU," see relative value unit.

"Stat laboratory charges" - Charges by a laboratory for performing tests immediately. "Stat" is an abbreviation for the Latin word "statim," meaning immediately.

"Sterile tray" - A tray containing instruments and supplies needed for certain surgical procedures normally done in an office setting. For reimbursement purposes, tray components are considered by CMS to be nonroutine and reimbursed separately.

"Technical advisory group (TAG)" - An advisory group with representatives from professional organizations whose members are affected by implementation of RBRVS physician fee schedules and other payment and purchasing systems utilized by the agency and the department of labor and industries.

"Technical component" - The part of a procedure or service that relates to the equipment set-up and technician's time, or the part of the procedure and service reimbursement that recognizes the equipment cost and technician time.

NEW SECTION

WAC 182-531-2040 Enhanced reimbursement—Medication assisted treatment for opioid use disorder. (1) The medicare agency pays an enhanced reimbursement using the medicare rate when medication assisted treatment (MAT) is part of the visit for selected evaluation and management (E/M) codes and the provider meets the criteria in this section.

(2) The purpose of this enhanced reimbursement is to encourage providers to obtain and use a Drug Addiction Treatment Act of 2000 waiver (DATA 2000 waiver) to increase client access to evidence-based treatment using medications for opioid use disorder.

(3) To receive the enhanced reimbursement for MAT, a provider must:

(a) Bill using the agency's expedited prior authorization process;

(b) Currently use a DATA 2000 waiver to prescribe MAT to clients with opioid use disorder;

(c) Bill for treating a client with a qualifying diagnosis for opioid use disorder; and

(d) Provide opioid-related counseling during the visit.

(4) The agency payment for MAT under this section is limited to one enhanced reimbursement, per client, per day.

(5) The agency does not pay an enhanced reimbursement for services a client receives for opioid use disorder through an opioid treatment program facility licensed by the department of health.

WSR 19-09-058

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed April 15, 2019, 2:57 p.m., effective July 1, 2019]

Effective Date of Rule: July 1, 2019.

Purpose: The agency revised these rules to comply with legislation in SSB 5883 for providing dental services through managed care, adding coverage for teledentistry, and revising limitations on visual oral assessments.

Citation of Rules Affected by this Order: Amending WAC 182-535-1050, 182-535-1060, 182-535-1080, 182-535-1082, 182-535-1084, 182-535-1098, 182-535-1245, 182-535A-0010, 182-535A-0020, and 182-500-0070.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, SSB 5883, section 213 (1)(c), chapter 1, Laws of 2017.

Adopted under notice filed as WSR 19-06-044 on March 4, 2019.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
Original WAC 182-535-1082 Covered—Preventive services.		
Proposed	(5) Tobacco/nicotine cessation counseling for the control and prevention of oral disease. The agency covers tobacco/nicotine cessation counseling for pregnant women only. See WAC 182-531-1720.	The agency proposed to remove "for pregnant women only" but is keeping the original language at this time.
Adopted	(5) Tobacco/nicotine cessation counseling for the control and prevention of oral disease. The agency covers tobacco/nicotine cessation counseling for pregnant women only. See WAC 182-531-1720.	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 10, Repealed 0.

Date Adopted: April 15, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-11-136, filed 5/24/17, effective 7/1/17)

WAC 182-500-0070 (~~Medical assistance~~) Definitions—M. "Managed care organization (MCO)" see WAC 182-538-050.

"**Medicaid**" means the federal medical aid program under Title XIX of the Social Security Act that provides health care to eligible people.

"**Medicaid agency**" means the state agency that administers the medicaid program. The Washington state health care authority (HCA) is the state's medicaid agency.

"**Medicaid transformation project**" refers to the demonstration granted to the state by the federal government under section 1115 of the Social Security Act. Under this demonstration, the federal government allows the state to engage in a five-year demonstration to support health care systems, to implement reform, and to provide new targeted medicaid services to eligible clients with significant needs.

"**Medical assistance**" is the term the agency and its predecessors use to mean all federal or state-funded health care

programs, or both, administered by the agency or its designees. Medical assistance programs are referred to as Washington apple health.

"**Medical care services (MCS)**" means the limited scope health care program financed by state funds for clients who are eligible for the aged, blind, or disabled (ABD) cash assistance (see WAC 388-400-0060) or the housing and essential needs (HEN) referral program (see WAC 388-400-0065) and not eligible for other full-scope programs due to their citizenship or immigration status.

"**Medical consultant**" means a physician employed by or contracted with the agency or the agency's designee.

"**Medical facility**" means a medical institution or clinic that provides health care services.

"**Medical institution**" See "institution" in WAC 182-500-0050.

"**Medical services card**" or "**services card**" means the card the agency issues at the initial approval of a person's Washington apple health benefit. The card identifies the person's name and medical services identification number but is not proof of eligibility. The card may be replaced upon request if it is lost or stolen, but is not required to access health care through Washington apple health.

"**Medically necessary**" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction. There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purposes of this section, "course of treatment" may include mere observation or, where appropriate, no medical treatment at all.

"**Medically needy (MN)**" or "**medically needy program (MNP)**" means the state and federally funded health care program available to specific groups of people who would be eligible as categorically needy (CN), except their monthly income is above the CN standard. Some long-term care clients with income or resources above the CN standard may also qualify for MN.

"**Medically needy income level (MNIL)**" means the standard the agency uses to determine eligibility under the medically needy program. See WAC 182-519-0050.

"**Medicare**" is the federal government health insurance program under Titles II and XVIII of the Social Security Act. For additional information, see www.Medicare.gov.

"**Medicare assignment**" means the process by which a provider agrees to provide services to a medicare beneficiary and accept medicare's payment for the services.

"**Medicare cost-sharing**" means out-of-pocket medical expenses related to services provided by medicare. For clients enrolled in medicare, cost-sharing may include Part A and Part B premiums, co-insurance, deductibles, and copayments for medicare services. See chapter 182-517 WAC.

"**Minimum essential coverage**" means coverage under 26 U.S.C. Sec. 5000A(f).

"**Modified adjusted gross income (MAGI)**" means the adjusted gross income as determined by the Internal Revenue

Service under the Internal Revenue Code of 1986 (IRC) increased by:

((+)) (a) Any amount excluded from gross income under 26 U.S.C. Sec. 911;

((2)) (b) Any amount of interest received or accrued by the client during the taxable year which is exempt from tax; and

((3)) (c) Any amount of Title II Social Security income or Tier I railroad retirement benefits excluded from gross income under 26 U.S.C. Sec. 86. See chapter 182-509 WAC for additional rules regarding MAGI.

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535-1050 (~~Dental related services~~)

Definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC apply to this chapter. The medicaid agency also uses dental definitions found in the American Dental Association's Current Dental Terminology (CDT) and the American Medical Association's Physician's Current Procedural Terminology (CPT). Where there is any discrepancy between the CDT or CPT and this section, this section prevails. (CPT is a trademark of the American Medical Association.)

"Access to baby and child dentistry (ABCD)" is a program to increase access to dental services for medicaid eligible infants, toddlers, and preschoolers through age five. See WAC 182-535-1245 for specific information.

"Alternate living facility" is defined in WAC 182-513-1100.

"American Dental Association (ADA)" is a national organization for dental professionals and dental societies.

"Anterior" refers to teeth (maxillary and mandibular incisors and canines) and tissue in the front of the mouth. Permanent maxillary anterior teeth include teeth six, seven, eight, nine, ten, and eleven. Permanent mandibular anterior teeth include teeth twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, and twenty-seven. Primary maxillary anterior teeth include teeth C, D, E, F, G, and H. Primary mandibular anterior teeth include teeth M, N, O, P, Q, and R.

"Asynchronous" means two or more events not happening at the same time.

"Behavior management" means using one additional professional staff, who is employed by the dental provider or clinic and who is not delivering dental treatment to the client, to manage the client's behavior to facilitate dental treatment delivery.

"By-report" means a method of reimbursement in which the department determines the amount it will pay for a service when the rate for that service is not included in the agency's published fee schedules. Upon request the provider must submit a "report" that describes the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Caries" means carious lesions or tooth decay through the enamel or decay on the root surface.

• **"Incipient caries"** means the beginning stages of caries or decay, or subsurface demineralization.

• **"Rampant caries"** means a sudden onset of widespread caries that affects most of the teeth and penetrates quickly to the dental pulp.

"Comprehensive oral evaluation" means a thorough evaluation and documentation of a client's dental and medical history to include extra-oral and intra-oral hard and soft tissues, dental caries, missing or unerupted teeth, restorations, occlusal relationships, periodontal conditions (including periodontal charting), hard and soft tissue anomalies, and oral cancer screening.

"Conscious sedation" means a drug-induced depression of consciousness during which a client responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, spontaneous ventilation is adequate, and cardiovascular function is maintained.

"Core buildup" means the building up of clinical crowns, including pins.

"Coronal" means the portion of a tooth that is covered by enamel.

"Crown" means a restoration covering or replacing the whole clinical crown of a tooth.

"Current dental terminology (CDT)" means a systematic listing of descriptive terms and identifying codes for reporting dental services and procedures performed by dental practitioners. CDT is published by the Council on Dental Benefit Programs of the American Dental Association (ADA).

"Current procedural terminology (CPT)" means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians and other practitioners who provide physician-related services. CPT is copyrighted and published annually by the American Medical Association (AMA).

"Decay" means a term for caries or carious lesions and means decomposition of tooth structure.

"Deep sedation" means a drug-induced depression of consciousness during which a client cannot be easily aroused, ventilatory function may be impaired, but the client responds to repeated or painful stimulation.

"Dental general anesthesia" see **"general anesthesia."**

"Dentures" means an artificial replacement for natural teeth and adjacent tissues, and includes complete dentures, immediate dentures, overdentures, and partial dentures.

"Denturist" means a person licensed under chapter 18.30 RCW to make, construct, alter, reproduce, or repair a denture.

"Distant site (location of dental provider)" means the physical location of the dentist or authorized dental provider providing the dental service to a client through teledentistry.

"Edentulous" means lacking teeth.

"Endodontic" means the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.

"EPSDT" means the agency's early and periodic screening, diagnostic, and treatment program for clients age twenty and younger as described in chapter 182-534 WAC.

"Extraction" see **"simple extraction"** and **"surgical extraction."**

"Flowable composite" means a diluted low-viscosity-filled resin-based composite dental restorative material that is used in cervical restorations and small, low stress bearing occlusal restorations.

"Fluoride varnish, rinse, foam or gel" means a substance containing dental fluoride which is applied to teeth, not including silver diamine fluoride.

"General anesthesia" means a drug-induced loss of consciousness during which a client is not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Clients may require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"Interim therapeutic restoration (ITR)" means the placement of an adhesive restorative material following caries debridement by hand or other method for the management of early childhood caries. It is not considered a definitive restoration.

"Limited oral evaluation" means an evaluation limited to a specific oral health condition or problem. Typically a client receiving this type of evaluation has a dental emergency, such as trauma or acute infection.

"Limited visual oral assessment" means an assessment by a dentist or dental hygienist provided in a setting other than a dental office or dental clinic to identify signs of disease and the potential need for referral for diagnosis.

"Medically necessary" see WAC 182-500-0070.

"Oral evaluation" see **"comprehensive oral evaluation."**

"Oral hygiene instruction" means instruction for home oral hygiene care, such as tooth brushing techniques or flossing.

"Originating site (location of client)" means the physical location of the medicaid client as it relates to teledentistry.

"Partials" or **"partial dentures"** mean a removable prosthetic appliance that replaces missing teeth on either arch.

"Periodic oral evaluation" means an evaluation performed on a patient of record to determine any changes in the client's dental or medical status since a previous comprehensive or periodic evaluation.

"Periodontal maintenance" means a procedure performed for clients who have previously been treated for periodontal disease with surgical or nonsurgical treatment. It includes the removal of supragingival and subgingival microorganisms, calculus, and deposits with hand and mechanical instrumentation, an evaluation of periodontal conditions, and a complete periodontal charting as appropriate.

"Periodontal scaling and root planing" means a procedure to remove plaque, calculus, microorganisms, and rough cementum and dentin from tooth surfaces. This includes hand and mechanical instrumentation, an evaluation of periodontal conditions, and a complete periodontal charting as appropriate.

"Posterior" means the teeth (maxillary and mandibular premolars and molars) and tissue towards the back of the mouth. Permanent maxillary posterior teeth include teeth

one, two, three, four, five, twelve, thirteen, fourteen, fifteen, and sixteen. Permanent mandibular posterior teeth include teeth seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, and thirty-two. Primary maxillary posterior teeth include teeth A, B, I, and J. Primary mandibular posterior teeth include teeth K, L, S, and T.

"Prepaid ambulatory health plan (PAHP)" see WAC 182-538-050. For the purpose of this chapter, dental managed care contractors are considered PAHPs.

"Prophylaxis" means the dental procedure of scaling and polishing which includes removal of calculus, plaque, and stains from teeth.

"Proximal" means the surface of the tooth near or next to the adjacent tooth.

"Radiograph (X-ray)" means an image or picture produced on a radiation sensitive film emulsion or digital sensor by exposure to ionizing radiation.

"Reline" means to resurface the tissue side of a denture with new base material or soft tissue conditioner in order to achieve a more accurate fit.

"Root canal" means the chamber within the root of the tooth that contains the pulp.

"Root canal therapy" means the treatment of the pulp and associated periradicular conditions.

"Root planing" means a procedure to remove plaque, calculus, microorganisms, and rough cementum and dentin from tooth surfaces. This includes hand and mechanical instrumentation.

"Scaling" means a procedure to remove plaque, calculus, and stain deposits from tooth surfaces.

"Sealant" means a dental material applied to teeth to prevent dental caries.

"Simple extraction" means the extraction of an erupted or exposed tooth to include the removal of tooth structure, minor smoothing of socket bone, and closure, as necessary.

"Standard of care" means what reasonable and prudent practitioners would do in the same or similar circumstances.

"Surgical extraction" means the extraction of an erupted or impacted tooth requiring removal of bone and/or sectioning of the tooth, and including elevation of mucoperiosteal flap if indicated. This includes related cutting of gingiva and bone, removal of tooth structure, minor smoothing of socket bone, and closure.

"Synchronous" means existing or occurring at the same time.

"Teledentistry" means the variety of technologies and tactics used to deliver HIPAA-compliant, interactive, real-time audio and video telecommunications (including web-based applications) or store-and-forward technology to deliver covered services within the dental care provider's scope of practice to a client at a site other than the site where the provider is located.

"Temporomandibular joint dysfunction (TMJ/TMD)" means an abnormal functioning of the temporomandibular joint or other areas secondary to the dysfunction.

"Therapeutic pulpotomy" means the surgical removal of a portion of the pulp (inner soft tissue of a tooth), to retain the healthy remaining pulp.

"Usual and customary" means the fee that the provider usually charges nonmedicaid customers for the same service or item. This is the maximum amount that the provider may bill the agency.

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535-1060 (~~(Dental-related services—)~~) Client eligibility. (1) Refer to WAC 182-501-0060 to see which apple health programs include dental-related services in their benefit package.

(2) (~~Managed care clients are eligible under apple health fee-for-service for covered dental-related services not covered by their managed care organization (MCO), subject to the provisions of this chapter and other applicable agency rules.~~)

(3)) Clients whose benefit package includes dental services are assigned a dental managed care plan. If a client is not eligible for a dental managed care plan, they receive services on a fee-for-service basis.

(3) Clients enrolled in an agency-contracted managed care organization (MCO) or prepaid ambulatory health plan (PAHP) must receive their dental services through that MCO or PAHP, except as described under WAC 182-538-095.

(a) All clients are eligible for dental managed care benefits with the exception of clients receiving apple health benefits under a state-only program.

(b) Clients eligible for dental managed care on a voluntary basis include:

(i) American Indian/Alaska native (AI/AN) clients; and

(ii) Clients who reside in a county that has only one MCO or PAHP.

(c) See WAC 182-538-060 for more details regarding managed care choice and assignment.

(4) See WAC 182-507-0115 for rules for clients eligible under the alien emergency medical program.

((4)) (5) Exception to rule procedures as described in WAC 182-501-0160 are not available for services that are excluded from a client's benefit package.

AMENDATORY SECTION (Amending WSR 16-18-033, filed 8/26/16, effective 9/26/16)

WAC 182-535-1080 (~~(Dental-related services—)~~) Covered—Diagnostic. Clients described in WAC 182-535-1060 are eligible to receive the dental-related diagnostic services listed in this section, subject to coverage limitations, restrictions, and client age requirements identified for a specific service.

(1) **Clinical oral evaluations.** The medicaid agency covers the following oral health evaluations and assessments, per client, per provider or clinic:

(a) Periodic oral evaluations as defined in WAC 182-535-1050, once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation.

(b) Limited oral evaluations as defined in WAC 182-535-1050, only when the provider performing the limited oral evaluation is not providing routine scheduled dental services for the client on the same day. The limited oral evaluation:

- (i) Must be to evaluate the client for a:
 - (A) Specific dental problem or oral health complaint;
 - (B) Dental emergency; or
 - (C) Referral for other treatment.

(ii) When performed by a dentist, is limited to the initial examination appointment. The agency does not cover any additional limited examination by a dentist for the same client until three months after a removable prosthesis has been delivered.

(c) Comprehensive oral evaluations as defined in WAC 182-535-1050, once per client, per provider or clinic, as an initial examination. The agency covers an additional comprehensive oral evaluation if the client has not been treated by the same provider or clinic within the past five years.

(d) Limited visual oral assessments as defined in WAC 182-535-1050, (~~once every six months~~) two times per client, per provider in a twelve-month period only when the assessment is:

(i) Not performed in conjunction with other clinical oral evaluation services; and

(ii) Performed by a licensed dentist or dental hygienist to determine the need for sealants or fluoride treatment or when triage services are provided in settings other than dental offices or clinics.

(2) **Radiographs (X-rays).** The agency:

(a) Covers radiographs per client, per provider or clinic, that are of diagnostic quality, dated, and labeled with the client's name. The agency requires:

(i) Original radiographs to be retained by the provider as part of the client's dental record; and

(ii) Duplicate radiographs to be submitted:

(A) With requests for prior authorization; or

(B) When the agency requests copies of dental records.

(b) Uses the prevailing standard of care to determine the need for dental radiographs.

(c) Covers an intraoral complete series once in a three-year period for clients age fourteen and older only if the agency has not paid for a panoramic radiograph for the same client in the same three-year period. The intraoral complete series includes at least fourteen to twenty-two periapical and posterior bitewings. The agency limits reimbursement for all radiographs to a total payment of no more than payment for a complete series.

(d) Covers medically necessary periapical radiographs for diagnosis in conjunction with definitive treatment, such as root canal therapy. Documentation supporting medical necessity must be included in the client's record.

(e) Covers an occlusal intraoral radiograph, per arch, once in a two-year period, for clients age twenty and younger.

(f) Covers a maximum of four bitewing radiographs once every twelve months.

(g) Covers panoramic radiographs in conjunction with four bitewings, once in a three-year period, only if the agency has not paid for an intraoral complete series for the same client in the same three-year period.

(h) Covers one preoperative and postoperative panoramic radiograph per surgery without prior authorization. The agency considers additional radiographs on a case-by-case basis with prior authorization. For orthodontic services, see chapter 182-535A WAC.

(i) Covers one preoperative and postoperative cephalometric film per surgery without prior authorization. The agency considers additional radiographs on a case-by-case basis with prior authorization. For orthodontic services, see chapter 182-535A WAC.

(j) Covers radiographs not listed as covered in this subsection, only on a case-by-case basis and when prior authorized.

(k) Covers oral and facial photographic images, only on a case-by-case basis and when requested by the agency.

(3) **Tests and examinations.** The agency covers the following for clients who are age twenty and younger:

(a) One pulp vitality test per visit (not per tooth):

(i) For diagnosis only during limited oral evaluations; and

(ii) When radiographs or documented symptoms justify the medical necessity for the pulp vitality test.

(b) Diagnostic casts other than those included in an orthodontic case study, on a case-by-case basis, and when requested by the agency.

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535-1082 (~~Dental related services~~)
Covered—Preventive services. Clients described in WAC 182-535-1060 are eligible for the dental-related preventive services listed in this section, subject to coverage limitations and client-age requirements identified for a specific service.

(1) **Prophylaxis.** The medicaid agency covers prophylaxis as follows. Prophylaxis:

(a) Includes scaling and polishing procedures to remove coronal plaque, calculus, and stains when performed on primary or permanent dentition.

(b) Is limited to once every:

(i) Six months for clients age eighteen and younger;

(ii) Twelve months for clients age nineteen and older; or

(iii) Six months for a client residing in an alternate living facility or nursing facility.

(c) Is reimbursed according to (b) of this subsection when the service is performed:

(i) At least six months after periodontal scaling and root planing, or periodontal maintenance services, for clients from age thirteen through eighteen;

(ii) At least twelve months after periodontal scaling and root planing, periodontal maintenance services, for clients age nineteen and older; or

(iii) At least six months after periodontal scaling and root planing, or periodontal maintenance services for clients who reside in an alternate living facility or nursing facility.

(d) Is not reimbursed separately when performed on the same date of service as periodontal scaling and root planing, periodontal maintenance, gingivectomy, gingivoplasty, or scaling in the presence of generalized moderate or severe gingival inflammation.

(e) Is covered for clients of the developmental disabilities administration of the department of social and health services (DSHS) according to (a), (c), and (d) of this subsection and WAC 182-535-1099.

(2) **Topical fluoride treatment.** The agency covers the following per client, per provider or clinic:

(a) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients age six and younger, three times within a twelve-month period with a minimum of one hundred ten days between applications.

(b) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients from age seven through eighteen, two times within a twelve-month period with a minimum of one hundred seventy days between applications.

(c) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, every three times within a twelve-month period during orthodontic treatment with a minimum of one hundred ten days between applications.

(d) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients age nineteen and older, once within a twelve-month period.

(e) Fluoride rinse, foam or gel, fluoride varnish, including disposable trays, for clients who reside in alternate living facilities or nursing facilities, every two times within a twelve-month period with a minimum of one hundred seventy days between applications.

(f) Additional topical fluoride applications only on a case-by-case basis and when prior authorized.

(g) Topical fluoride treatment for clients of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(3) **Silver diamine fluoride.**

(a) The agency covers silver diamine fluoride as follows:

(i) When used for stopping the progression of caries or as a topical preventive agent;

(ii) Allowed two times per client per tooth in a twelve-month period; and

(iii) Cannot be billed with interim therapeutic restoration on the same tooth when arresting caries or as a preventive agent.

(b) The dental provider or office must have a signed informed consent form on file for each client receiving a silver diamine fluoride application. The form must include the following:

(i) Benefits and risks of silver diamine fluoride application;

(ii) Alternatives to silver diamine fluoride application; and

(iii) A color photograph example that demonstrates the post-procedure blackening of a tooth with silver diamine fluoride application.

(4) **Oral hygiene instruction.** Includes instruction for home care such as tooth brushing technique, flossing, and use of oral hygiene aids. Oral hygiene instruction is included as part of the global fee for prophylaxis for clients age nine and older. The agency covers individualized oral hygiene instruction for clients age eight and younger when all of the following criteria are met:

(a) Only once per client every six months within a twelve-month period.

(b) Only when not performed on the same date of service as prophylaxis or within six months from a prophylaxis by the same provider or clinic.

(c) Only when provided by a licensed dentist or a licensed dental hygienist and the instruction is provided in a setting other than a dental office or clinic.

~~((4))~~ **(5) Tobacco/nicotine cessation counseling for the control and prevention of oral disease.** The agency covers tobacco/nicotine cessation counseling for pregnant women only. See WAC 182-531-1720.

~~((5))~~ **(6) Sealants.** The agency covers:

(a) Sealants for clients age twenty and younger and clients any age of the developmental disabilities administration of DSHS.

(b) Sealants, other than glass ionomer cement, only when used on a mechanically or chemically prepared enamel surface.

(c) Sealants once per tooth:

(i) In a three-year period for clients age twenty and younger; and

(ii) In a two-year period for clients any age of the developmental disabilities administration of DSHS according to WAC 182-535-1099.

(d) Sealants only when used on the occlusal surfaces of:

(i) Permanent teeth two, three, fourteen, fifteen, eighteen, nineteen, thirty, and thirty-one; and

(ii) Primary teeth A, B, I, J, K, L, S, and T.

(e) Sealants on noncarious teeth or teeth with incipient caries.

(f) Sealants only when placed on a tooth with no preexisting occlusal restoration, or any occlusal restoration placed on the same day.

(g) Sealants are included in the agency's payment for occlusal restoration placed on the same day.

(h) Additional sealants not described in this subsection on a case-by-case basis and when prior authorized.

~~((6))~~ **(7) Space maintenance.** The agency covers:

(a) One fixed unilateral space maintainer per quadrant or one fixed bilateral space maintainer per arch, including re cementation, for missing primary molars A, B, I, J, K, L, S, and T, when:

(i) Evidence of pending permanent tooth eruption exists; and

(ii) The service is not provided during approved orthodontic treatment.

(b) Replacement space maintainers on a case-by-case basis when authorized.

(c) The removal of fixed space maintainers when removed by a different provider.

(i) Space maintainer removal is allowed once per appliance.

(ii) Reimbursement for space maintainer removal is included in the payment to the original provider that placed the space maintainer.

AMENDATORY SECTION (Amending WSR 18-12-033, filed 5/29/18, effective 7/1/18)

WAC 182-535-1084 Dental-related services—Covered—Restorative services. Clients described in WAC 182-535-1060 are eligible for the dental-related restorative services listed in this section, subject to coverage limitations,

restrictions, and client age requirements identified for a specific service.

(1) Amalgam and resin restorations for primary and permanent teeth. The medicaid agency considers:

(a) Tooth preparation, acid etching, all adhesives (including bonding agents), liners and bases, indirect and direct pulp capping, polishing, and curing as part of the restoration.

(b) Occlusal adjustment of either the restored tooth or the opposing tooth or teeth as part of the restoration.

(c) Restorations placed within six months of a crown preparation by the same provider or clinic to be included in the payment for the crown.

(2) Limitations for all restorations. The agency:

(a) Considers multiple restoration involving the proximal and occlusal surfaces of the same tooth as a multisurface restoration, and limits reimbursement to a single multisurface restoration.

(b) Considers multiple restorative resins, flowable composite resins, or resin-based composites for the occlusal, buccal, lingual, mesial, and distal fissures and grooves on the same tooth as a one-surface restoration.

(c) Considers multiple restorations of fissures and grooves of the occlusal surface of the same tooth as a one-surface restoration.

(d) Considers resin-based composite restorations of teeth where the decay does not penetrate the dentinoenamel junction (DEJ) to be sealants. (See WAC 182-535-1082 for sealant coverage.)

(e) Reimburses proximal restorations that do not involve the incisal angle on anterior teeth as a two-surface restoration.

(f) Covers only one buccal and one lingual surface per tooth. The agency reimburses buccal or lingual restorations, regardless of size or extension, as a one-surface restoration.

(g) Does not cover preventive restorative resin or flowable composite resin on the interproximal surfaces (mesial or distal) when performed on posterior teeth or the incisal surface of anterior teeth.

(h) Does not pay for replacement restorations within a two-year period unless the restoration is cracked or broken or has an additional adjoining carious surface. The agency pays for the replacement restoration as one multisurface restoration. The client's record must include X rays or documentation supporting the medical necessity for the replacement restoration.

(3) Additional limitations for restorations on primary teeth. The agency covers:

(a) A maximum of two surfaces for a primary first molar. (See subsection (6) of this section for a primary first molar that requires a restoration with three or more surfaces.) The agency does not pay for additional restorations on the same tooth.

(b) A maximum of three surfaces for a primary second molar. (See subsection (6) of this section for a primary posterior tooth that requires a restoration with four or more surfaces.) The agency does not pay for additional restorations on the same tooth.

(c) A maximum of three surfaces for a primary anterior tooth. (See subsection (6) of this section for a primary ante-

rior tooth that requires a restoration with four or more surfaces.) The agency does not pay for additional restorations on the same tooth after three surfaces.

(4) **Additional limitations for restorations on permanent teeth.** The agency covers:

(a) Two occlusal restorations for the upper molars on teeth one, two, three, fourteen, fifteen, and sixteen if, the restorations are anatomically separated by sound tooth structure.

(b) A maximum of five surfaces per tooth for permanent posterior teeth, except for upper molars. The agency allows a maximum of six surfaces per tooth for teeth one, two, three, fourteen, fifteen, and sixteen.

(c) A maximum of six surfaces per tooth for resin-based composite restorations for permanent anterior teeth.

(5) **Crowns.** The agency:

(a) Covers the following indirect crowns once every five years, per tooth, for permanent anterior teeth for clients age fifteen through twenty when the crowns meet prior authorization criteria in WAC 182-535-1220 and the provider follows the prior authorization requirements in (c) of this subsection:

(i) Porcelain/ceramic crowns to include all porcelains, glasses, glass-ceramic, and porcelain fused to metal crowns; and

(ii) Resin crowns and resin metal crowns to include any resin-based composite, fiber, or ceramic reinforced polymer compound.

(b) Considers the following to be included in the payment for a crown:

(i) Tooth and soft tissue preparation;

(ii) Amalgam and resin-based composite restoration, or any other restorative material placed within six months of the crown preparation. Exception: The agency covers a one-surface restoration on an endodontically treated tooth, or a core buildup or cast post and core;

(iii) Temporaries, including but not limited to, temporary restoration, temporary crown, provisional crown, temporary prefabricated stainless steel crown, ion crown, or acrylic crown;

(iv) Packing cord placement and removal;

(v) Diagnostic or final impressions;

(vi) Crown seating (placement), including cementing and insulating bases;

(vii) Occlusal adjustment of crown or opposing tooth or teeth; and

(viii) Local anesthesia.

(c) Requires the provider to submit the following with each prior authorization request:

(i) Radiographs to assess all remaining teeth;

(ii) Documentation and identification of all missing teeth;

(iii) Caries diagnosis and treatment plan for all remaining teeth, including a caries control plan for clients with rampant caries;

(iv) Pre- and post-endodontic treatment radiographs for requests on endodontically treated teeth; and

(v) Documentation supporting a five-year prognosis that the client will retain the tooth or crown if the tooth is crowned.

(d) Requires a provider to bill for a crown only after delivery and seating of the crown, not at the impression date.

(6) **Other restorative services.** The agency covers the following restorative services:

(a) All recementations of permanent indirect crowns.

(b) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, resin-based composite crowns (direct), prefabricated esthetic coated stainless steel crowns, and prefabricated resin crowns for primary anterior teeth once every three years only for clients age twenty and younger as follows:

(i) For age twelve and younger without prior authorization if the tooth requires a four or more surface restoration; and

(ii) For age thirteen through twenty with prior authorization.

(c) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, resin-based composite crowns (direct), prefabricated esthetic coated stainless steel crowns, and prefabricated resin crowns, for primary posterior teeth once every three years without prior authorization if:

(i) Decay involves three or more surfaces for a primary first molar;

(ii) Decay involves four or more surfaces for a primary second molar; or

(iii) The tooth had a pulpotomy.

(d) Prefabricated stainless steel crowns, including stainless steel crowns with resin window, and prefabricated resin crowns, for permanent posterior teeth excluding one, sixteen, seventeen, and thirty-two once every three years, for clients age twenty and younger, without prior authorization.

(e) Prefabricated stainless steel crowns for clients of the developmental disabilities administration of the department of social and health services (DSHS) without prior authorization according to WAC 182-535-1099.

(f) Core buildup, including pins, only on permanent teeth, only for clients age twenty and younger, and only allowed in conjunction with crowns and when prior authorized. For indirect crowns, prior authorization must be obtained from the agency at the same time as the crown. Providers must submit pre- and post-endodontic treatment radiographs to the agency with the authorization request for endodontically treated teeth.

(g) Cast post and core or prefabricated post and core, only on permanent teeth, only for clients age twenty and younger, and only when in conjunction with a crown and when prior authorized.

~~((7) Silver diamine fluoride. The agency covers silver diamine fluoride, as follows:~~

~~(a) Allowed only when used:~~

~~(i) For stopping the progression of caries; or~~

~~(ii) As a topical preventive agent.~~

~~(b) Allowed two times per client, per tooth, in a twelve-month period.~~

~~(c) Cannot be billed with interim therapeutic restoration on the same tooth when arresting caries or as a preventive agent.))~~

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535-1098 (~~Dental-related services~~)

Covered—Adjunctive general services. Clients described in WAC 182-535-1060 are eligible to receive the adjunctive general services listed in this section, subject to coverage limitations, restrictions, and client-age requirements identified for a specific service.

(1) **Adjunctive general services.** The medicaid agency:

(a) Covers palliative (emergency) treatment, not to include pupal debridement (see WAC 182-535-1086 (2)(b)), for treatment of dental pain, limited to once per day, per client, as follows:

(i) The treatment must occur during limited evaluation appointments;

(ii) A comprehensive description of the diagnosis and services provided must be documented in the client's record; and

(iii) Appropriate radiographs must be in the client's record supporting the medical necessity of the treatment.

(b) Covers local anesthesia and regional blocks as part of the global fee for any procedure being provided to clients.

(c) Covers office-based deep sedation/general anesthesia services:

(i) For all eligible clients age eight and younger and clients any age of the developmental disabilities administration of the department of social and health services (DSHS). Documentation supporting the medical necessity of the anesthesia service must be in the client's record.

(ii) For clients age nine through twenty on a case-by-case basis and when prior authorized, except for oral surgery services. For oral surgery services listed in WAC 182-535-1094 (1)(f) through (m) and clients with cleft palate diagnoses, deep sedation/general anesthesia services do not require prior authorization.

(iii) For clients age twenty-one and older when prior authorized. The agency considers these services for only those clients:

(A) With medical conditions such as tremors, seizures, or asthma;

(B) Whose records contain documentation of tried and failed treatment under local anesthesia or other less costly sedation alternatives due to behavioral health conditions; or

(C) With other conditions for which general anesthesia is medically necessary, as defined in WAC 182-500-0070.

(d) Covers office-based intravenous moderate (conscious) sedation/analgesia:

(i) For any dental service for clients age twenty and younger, and for clients any age of the developmental disabilities administration of DSHS. Documentation supporting the medical necessity of the service must be in the client's record.

(ii) For clients age twenty-one and older when prior authorized. The agency considers these services for only those clients:

(A) With medical conditions such as tremors, seizures, or asthma;

(B) Whose records contain documentation of tried and failed treatment under local anesthesia, or other less costly sedation alternatives due to behavioral health conditions; or

(C) With other conditions for which general anesthesia or conscious sedation is medically necessary, as defined in WAC 182-500-0070.

(e) Covers office-based nonintravenous conscious sedation:

(i) For any dental service for clients age twenty and younger, and for clients any age of the developmental disabilities administration of DSHS. Documentation supporting the medical necessity of the service must be in the client's record.

(ii) For clients age twenty-one and older, only when prior authorized.

(f) Requires providers to bill anesthesia services using the current dental terminology (CDT) codes listed in the agency's current published billing instructions.

(g) Requires providers to have a current anesthesia permit on file with the agency.

(h) Covers administration of nitrous oxide once per day, per client per provider.

(i) Requires providers of oral or parenteral conscious sedation, deep sedation, or general anesthesia to meet:

(i) The prevailing standard of care;

(ii) The provider's professional organizational guidelines;

(iii) The requirements in chapter 246-817 WAC; and

(iv) Relevant department of health (DOH) medical, dental, or nursing anesthesia regulations.

(j) Pays for dental anesthesia services according to WAC 182-535-1350.

(k) Covers professional consultation/diagnostic services as follows:

(i) A dentist or a physician other than the practitioner providing treatment must provide the services; and

(ii) A client must be referred by the agency for the services to be covered.

(2) **Professional visits.** The agency covers:

(a) Up to two house/extended care facility calls (visits) per facility, per provider. The agency limits payment to two facilities per day, per provider.

(b) One hospital visit, including emergency care, per day, per provider, per client, and not in combination with a surgical code unless the decision for surgery is a result of the visit.

(c) Emergency office visits after regularly scheduled hours. The agency limits payment to one emergency visit per day, per client, per provider.

(3) **Drugs and medicaments (pharmaceuticals).**

(a) The agency covers oral sedation medications only when prescribed and the prescription is filled at a pharmacy. The agency does not cover oral sedation medications that are dispensed in the provider's office for home use.

(b) The agency covers therapeutic parenteral drugs as follows:

(i) Includes antibiotics, steroids, anti-inflammatory drugs, or other therapeutic medications. This does not include sedative, anesthetic, or reversal agents.

(ii) Only one single-drug injection or one multiple-drug injection per date of service.

(c) For clients age twenty and younger, the agency covers other drugs and medicaments dispensed in the provider's office for home use. This includes, but is not limited to, oral

antibiotics and oral analgesics. The agency does not cover the time spent writing prescriptions.

(4) **Miscellaneous services.** The agency covers:

(a) Behavior management provided by a dental provider or clinic. The agency does not cover assistance with managing a client's behavior provided by a dental provider or staff member delivering the client's dental treatment.

(i) Documentation supporting the need for behavior management must be in the client's record and including the following:

(A) A description of the behavior to be managed;

(B) The behavior management technique used; and

(C) The identity of the additional professional staff used to provide the behavior management.

(ii) Clients, who meet one of the following criteria and whose documented behavior requires the assistance of one additional professional staff employed by the dental provider or clinic to protect the client and the professional staff from injury while treatment is rendered, may receive behavior management:

(A) Clients age eight and younger;

(B) Clients age nine through twenty, only on a case-by-case basis and when prior authorized;

(C) Clients any age of the developmental disabilities administration of DSHS;

(D) Clients diagnosed with autism;

(E) Clients who reside in an alternate living facility (ALF) as defined in WAC 182-513-1301, or in a nursing facility as defined in WAC 182-500-0075.

(iii) Behavior management can be performed in the following settings:

(A) Clinics (including independent clinics, tribal health clinics, federally qualified health centers, rural health clinics, and public health clinics);

(B) Offices;

(C) Homes (including private homes and group homes); and

(D) Facilities (including nursing facilities and alternate living facilities).

(b) Treatment of post-surgical complications (e.g., dry socket). Documentation supporting the medical necessity of the service must be in the client's record.

(c) Occlusal guards when medically necessary and prior authorized. (Refer to WAC 182-535-1094(3) for occlusal orthotic device coverage and coverage limitations.) The agency covers:

(i) An occlusal guard only for clients age twelve through twenty when the client has permanent dentition; and

(ii) An occlusal guard only as a laboratory processed full arch appliance.

(5) Nonclinical procedures.

(a) The agency covers teledentistry according to the department of health, health systems quality assurance office of health professions, current guidelines, appropriate use of teledentistry, and as follows (see WAC 182-531-1730 for coverage limitations not listed in this section):

(i) Synchronous teledentistry at the distant site for clients of all ages; and

(ii) Asynchronous teledentistry at the distant site for clients of all ages.

(b) The client's record must include the following supporting documentation regarding teledentistry:

(i) Service provided via teledentistry;

(ii) Location of the client;

(iii) Location of the provider; and

(iv) Names and credentials of all persons involved in the teledentistry visit and their role in providing the service at both the originating and distant sites.

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535-1245 Access to baby and child dentistry (ABCD) program. The access to baby and child dentistry (ABCD) program is a program established to increase access to dental services for medicaid-eligible clients ages five and younger.

(1) Client eligibility for the ABCD program is as follows:

(a) Clients must be age five and younger. Once enrolled in the ABCD program, eligible clients are covered until their sixth birthday.

(b) Clients eligible under one of the following medical assistance programs are eligible for the ABCD program:

(i) Categorically needy program (CNP);

(ii) Limited casualty program-medically needy program (LCP-MNP);

(iii) Children's health program; or

(iv) State children's health insurance program (SCHIP).

~~((e) ABCD program services for eligible clients enrolled in a managed care organization (MCO) plan are paid through the fee-for-service payment system.)~~

(2) Health care providers and community service programs identify and refer eligible clients to the ABCD program. If enrolled, the client and an adult family member may receive:

(a) Oral health education;

(b) "Anticipatory guidance" (expectations of the client and the client's family members, including the importance of keeping appointments); and

(c) Assistance with transportation, interpreter services, and other issues related to dental services.

(3) ~~(The medicaid agency pays enhanced fees only to)~~ Only ABCD-certified dentists and other agency-approved certified providers are paid an enhanced fee for furnishing ABCD program services. ABCD program services include, when appropriate:

(a) Family oral health education. An oral health education visit:

(i) Is limited to one visit per day per family, up to two visits per child in a twelve-month period, per provider or clinic; and

(ii) Must include documentation of all of the following in the client's record:

(A) "Lift the lip" training;

(B) Oral hygiene training;

(C) Risk assessment for early childhood caries;

(D) Dietary counseling;

(E) Discussion of fluoride supplements; and

(F) Documentation in the client's record to record the activities provided and duration of the oral education visit.

(b) Comprehensive oral evaluations as defined in WAC 182-535-1050, once per client, per provider or clinic, as an initial examination. The agency covers an additional comprehensive oral evaluation if the client has not been treated by the same provider or clinic within the past five years;

(c) Periodic oral evaluations as defined in WAC 182-535-1050, once every six months. Six months must elapse between the comprehensive oral evaluation and the first periodic oral evaluation;

(d) Topical application of fluoride varnish;

(e) Amalgam, resin, and glass ionomer restorations on primary teeth, as specified in the agency's current published documents;

(f) Interim therapeutic restorations (ITRs) for primary teeth, only for clients age five and younger. The agency pays an enhanced rate for these restorations to ABCD-certified, ITR-trained dentists as follows:

(i) A one-surface, resin-based composite restoration with a maximum of five teeth per visit; and

(ii) Restorations on a tooth can be done every twelve months through age five, or until the client can be definitively treated for a restoration.

(g) Therapeutic pulpotomy;

(h) Prefabricated stainless steel crowns on primary teeth, as specified in the agency's current published documents;

(i) Resin-based composite crowns on anterior primary teeth; and

(j) Other dental-related services, as specified in the agency's current published documents.

(4) The client's record must show documentation of the ABCD program services provided.

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535A-0010 (~~Orthodontic services~~)

Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter.

"Adolescent dentition" means teeth that are present after the loss of primary teeth and prior to the cessation of growth that affects orthodontic treatment.

"Appliance placement" means the application of orthodontic attachments to the teeth for the purpose of correcting dentofacial abnormalities.

"Cleft" means an opening or fissure involving the dentition and supporting structures, especially one occurring in utero. These can be:

(a) Cleft lip;

(b) Cleft palate (involving the roof of the mouth); or

(c) Facial clefts (e.g., macrostomia).

"Comprehensive full orthodontic treatment" means utilizing fixed orthodontic appliances for treatment of adolescent dentition leading to the improvement of a client's severe handicapping craniofacial dysfunction and/or dentofacial deformity, including anatomical and functional relationships.

"Craniofacial anomalies" means abnormalities of the head and face, either congenital or acquired, involving disruption of the dentition and supporting structures.

"Craniofacial team" means a cleft palate/maxillofacial team or an American Cleft Palate Association-certified craniofacial team. These teams are responsible for the management (review, evaluation, and approval) of patients with cleft palate craniofacial anomalies to provide integrated management, promote parent-professional partnership, and make appropriate referrals to implement and coordinate treatment plans.

"Crossbite" means an abnormal relationship of a tooth or teeth to the opposing tooth or teeth, in which normal buccolingual or labiolingual relations are reversed.

"Dental dysplasia" means an abnormality in the development of the teeth.

"Ectopic eruption" means a condition in which a tooth erupts in an abnormal position or is fifty percent blocked out of its normal alignment in the dental arch.

"EPSDT" means the agency's early and periodic screening, diagnostic, and treatment program for clients twenty years of age and younger as described in chapter 182-534 WAC.

"Hemifacial microsomia" means a developmental condition involving the first and second brachial arch. This creates an abnormality of the upper and lower jaw, ear, and associated structures (half or part of the face is smaller in size).

"Interceptive orthodontic treatment" means procedures to lessen the severity or future effects of a malformation and to affect or eliminate the cause. Such treatment may occur in the primary or transitional dentition and may include such procedures as the redirection of ectopically erupting teeth, correction of isolated dental cross-bite, or recovery of recent minor space loss where overall space is adequate.

"Limited orthodontic treatment" means orthodontic treatment with a limited objective, not involving the entire dentition. It may be directed only at the existing problem, or at only one aspect of a larger problem in which a decision is made to defer or forego more comprehensive therapy.

"Malocclusion" means improper alignment of biting or chewing surfaces of upper and lower teeth or abnormal relationship of the upper and lower dental arches.

"Maxillofacial" means relating to the jaws and face.

"Occlusion" means the relation of the upper and lower teeth when in functional contact during jaw movement.

"Orthodontics" means treatment involving the use of any appliance, in or out of the mouth, removable or fixed, or any surgical procedure designed to redirect teeth and surrounding tissues.

"Orthodontist" means a dentist who specializes in orthodontics, who is a graduate of a postgraduate program in orthodontics that is accredited by the American Dental Association, and who meets the licensure requirements of the department of health.

"Permanent dentition" means those teeth that succeed the primary teeth and the additional molars that erupt.

"Prepaid ambulatory health plan" or "PAHP" see WAC 182-538-050. For the purpose of this chapter, dental managed care contractors are considered PAHPs.

"Primary dentition" means teeth that develop and erupt first in order of time and are normally shed and replaced by permanent teeth.

"**Transitional dentition**" means the final phase from primary to permanent dentition, in which most primary teeth have been lost or are in the process of exfoliating and the permanent successors are erupting.

AMENDATORY SECTION (Amending WSR 17-20-097, filed 10/3/17, effective 11/3/17)

WAC 182-535A-0020 (~~Orthodontic treatment and orthodontic services~~) Client eligibility. (1) Subject to the limitations of this chapter, the medicaid agency covers medically necessary orthodontic treatment and orthodontic-related services for severe handicapping malocclusions, craniofacial anomalies, or cleft lip or palate, for eligible clients through age twenty. Refer to WAC 182-501-0060 to see which Washington apple health programs include orthodontic services in their benefit package.

(2) Clients enrolled in an agency-contracted managed care organization (MCO) or prepaid ambulatory health plan (PAHP) must receive their orthodontic services through that MCO or PAHP, except as described under WAC 182-538-095. Clients whose benefit package includes dental services are assigned a dental managed care plan. If a client is not eligible for a dental managed care plan, they receive services on a fee-for-service basis.

(a) All clients are eligible for dental managed care benefits with the exception of clients receiving apple health benefits under a state-only program.

(b) Clients eligible for dental managed care on a voluntary basis include:

(i) American Indian/Alaska native (AI/AN) clients; and

(ii) Clients who reside in a county that has only one MCO or PAHP.

(c) See WAC 182-538-060 for more details regarding managed care choice and assignment.

(d) If a client receiving orthodontic services through an MCO or PAHP chooses to transfer to another MCO or PAHP or to fee-for-service (FFS) during active orthodontic treatment, the MCO or PAHP that initiated the orthodontic treatment remains responsible for payment until completion of the orthodontic treatment.

(e) If an FFS client transfers to an MCO or PAHP during active orthodontic treatment, the MCO or PAHP assumes payment responsibility until completion of the orthodontic treatment.

(3) Eligible clients may receive the same orthodontic treatment and orthodontic-related services in recognized out-of-state bordering cities on the same basis as if provided in-state. See WAC 182-501-0175.

~~((3))~~ (4) Eligible clients may receive the same orthodontic treatment and orthodontic-related services for continued orthodontic treatment when originally rendered by a non-medicaid or out-of-state provider as follows:

(a) The provider must submit the initial orthodontic case study and treatment plan records with the request for continued treatment.

(b) The agency evaluates the initial orthodontic case study and treatment plan to determine if the client met the agency's orthodontic criteria per WAC 182-535A-0040 (1) through (3).

(c) The agency determines continued treatment duration based on the client's current orthodontic conditions.

(d) The agency does not cover continued treatment if the client's initial condition did not meet the agency's criteria for the initial orthodontic treatment. The agency pays a deband and retainer fee if the client does not meet the initial orthodontic treatment criteria.

WSR 19-09-062
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 16, 2019, 10:37 a.m., effective May 17, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-341 WAC, Behavioral health services administrative requirements, the department of health (department) is adopting 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 the department of social and health services (DSHS) to the department according to 2ESHB 1388 (chapter 201, Laws of 2018). These rules will replace and supersede the emergency rules filed as WSR 19-05-046. There are only two editing corrections between this rule and the emergency rule filing. These 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 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 the department 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.

Citation of Rules Affected by this Order: New WAC 246-341-0100, 246-341-0110, 246-341-0200, 246-341-0300, 246-341-0305, 246-341-0310, 246-341-0315, 246-341-0320, 246-341-0325, 246-341-0330, 246-341-0335, 246-341-0340, 246-341-0342, 246-341-0345, 246-341-0350, 246-341-0355, 246-341-0360, 246-341-0365, 246-341-0370, 246-341-0400, 246-341-0410, 246-341-0420, 246-341-0425, 246-341-0430, 246-341-0500, 246-341-0510, 246-341-0515, 246-341-0520, 246-341-0600, 246-341-0605, 246-341-0610, 246-341-0620, 246-341-0640, 246-341-0650, 246-341-0700, 246-341-0702, 246-341-0704, 246-341-0706, 246-341-0708, 246-341-0710, 246-341-0712, 246-341-0714, 246-341-0716, 246-341-0718, 246-341-0720, 246-341-0722, 246-341-0724, 246-341-0726, 246-341-0728, 246-341-0730, 246-341-0732, 246-341-0734, 246-341-0736, 246-341-0738, 246-341-0740, 246-341-0742, 246-341-0744, 246-341-0746, 246-341-0748, 246-341-0750, 246-341-0752, 246-341-0754, 246-341-0800, 246-341-0805, 246-341-0810, 246-341-0815, 246-341-0820, 246-341-0900, 246-341-0905, 246-341-0910, 246-341-0915, 246-341-0920, 246-341-1000, 246-341-1005, 246-341-1010, 246-341-1015, 246-341-1020, 246-341-1025, 246-341-1100, 246-341-1102, 246-341-1104, 246-341-1106, 246-341-1108, 246-341-1110, 246-341-1112, 246-341-1114, 246-341-1116, 246-341-1118, 246-341-1120, 246-341-1122, 246-341-1124, 246-341-1126, 246-341-1128, 246-341-1130, 246-341-1132, 246-341-1134, 246-341-1136, 246-341-1138, 246-341-1140, 246-341-1142, 246-341-1144, 246-341-1146, 246-341-1148, 246-341-1150, 246-341-1152, 246-341-1154, 246-341-1156, and 246-341-1158.

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

Other Authority: 2ESHB 1388 (chapter 201, Laws of 2018), ESSB 6491 (chapter 291, Laws of 2018).

Adopted under notice filed as WSR 19-04-033 on January 28, 2019.

Changes Other than Editing from Proposed to Adopted Version: No changes other than editing. There were two editing changes correcting a cross-reference in WAC 246-341-0706(4) and an incorrect reference to the secretary of health in WAC 246-341-1136(5).

A final cost-benefit analysis is available 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.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 108, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 108, Amended 0, Repealed 0.

Date Adopted: April 12, 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 individ-

ual'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(17) 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 insti-

tuted 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 requirements 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 secretary or secretary's designee 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 primary 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 19-09-063
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 16, 2019, 10:49 a.m., effective May 17, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-827A-0040 Application requirements, the department of health adopted an amendment to correct a typographical error in the existing rule. WAC 246-827A-0040 incorrectly referenced a nonexistent section related to the required application fee for the forensic phlebotomist credential. A rule amendment correctly states that fees for the forensic phlebotomist credential can be found under WAC 246-827A-990, rather than WAC 246-827A-900, which does not exist.

Citation of Rules Affected by this Order: Amending WAC 246-827A-0040.

Statutory Authority for Adoption: RCW 18.360.030 and 18.360.070.

Other Authority: RCW 18.360.040 and E2SHB 1614 (chapter 336, Laws of 2017).

Adopted under notice filed as WSR 18-24-053 on November 28, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: April 12, 2019.

John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 18-14-016, filed 6/25/18, effective 7/26/18)

WAC 246-827A-0040 Application requirements. An applicant for a forensic phlebotomist credential must submit the following to the department:

(1) Completed application on forms provided by the department;

(2) Proof of successful completion of the required education or approved training program described under WAC 246-827A-0030;

(3) Proof of completing seven clock hours of HIV/AIDS education as required by chapter 246-12 WAC, Part 8;

(4) Proof of current employment as a law enforcement or police officer, or current employment at a detention or correction facility;

(5) Any fee required in WAC ((~~246-827A-900~~) 246-827A-990);

(6) Fingerprint cards for national fingerprint based background check pursuant to RCW 18.130.064(2), if requested by the department; and

(7) Any additional documentation or information requested by the department.

WSR 19-09-065
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 16, 2019, 11:01 a.m., effective May 17, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-850 WAC, Orthotics and prosthetic rules, the department of health is adopting amendments and repealing sections that will better align the rules with industry standards regarding examinations, educational programs, clarifying licensure, and continuing competency requirements.

Citation of Rules Affected by this Order: Repealing WAC 246-850-040 and 246-850-130; and amending WAC 246-850-010, 246-850-020, 246-850-030, 246-850-050, 246-850-060, 246-850-110, 246-850-120, 246-850-140, 246-850-150, 246-850-160, and 246-850-990.

Statutory Authority for Adoption: RCW 18.200.050.

Adopted under notice filed as WSR 19-03-066 on January 11, 2019.

A final cost-benefit analysis is available by contacting Kim-Boi Shadduck, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-2912, fax 360-236-2901, TTY 360-833-6388 or 711, email kimboi.shadduck@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, Repealed 2.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 11, Repealed 2.

Date Adopted: March 5, 2019.

John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 98-21-086, filed 10/21/98, effective 11/21/98)

WAC 246-850-010 Definitions. The definitions in RCW 18.200.010 and this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Maintenance of an orthosis or prosthesis" includes replacement or repair of component parts that is equivalent to the original component and is required due to wear or failure. Maintenance of an orthosis or prosthesis does not include altering the original components or complete replacement of the orthosis or prosthesis.

(2) "NCOPE" means the National Commission on Orthotic and Prosthetic Education.

(3) "CAAHEP" means the Commission for Accreditation of Allied Health Education Programs.

AMENDATORY SECTION (Amending WSR 98-21-086, filed 10/21/98, effective 11/21/98)

WAC 246-850-020 Requirements for licensure. To qualify for licensure as either an orthotist or prosthetist (~~(in this state)~~), a candidate (~~(must)~~) shall:

(1) Possess a bachelor degree in orthotics or prosthetics from an approved orthotic or prosthetic educational program (~~(as provided in)~~) consistent with WAC 246-850-110; alternatively, a candidate may complete a certificate program in orthotics or prosthetics from an approved education program as provided in WAC 246-850-110;

(2) Complete a clinical internship or residency (~~(of 1900 hours)~~) as required in WAC 246-850-050; and

(3) Successfully complete (~~(must)~~) examinations as required in WAC 246-850-060.

AMENDATORY SECTION (Amending WSR 98-21-086, filed 10/21/98, effective 11/21/98)

WAC 246-850-030 Application requirements. An applicant for licensure shall submit to the department the following:

(1) A completed application and fee as required in chapter 246-12 WAC, Part 2;

(2)(a) Official transcripts, certificate, or other documentation forwarded directly from the issuing agency where the applicant has earned a bachelor degree or completed a certificate program from (~~(an NCOPE or CAAHEP accredited program as set forth in WAC 246-850-110)~~) a program accredited by NCOPE or CAAHEP, or any other accrediting body with substantially equivalent requirements;

(b) Documentation of successful completion of the clinical patient management course, if the applicant completes education requirements for licensure on or after January 1, 2020;

(3) Documentation of completion of an approved internship or residency (~~(of at least 1900 hours as provided)~~) as described in WAC 246-850-050;

(4) Documentation of successful completion of (~~(a)~~) licensing examinations as approved by the secretary;

(5) Verification of four clock hours of HIV/AIDS education as required in chapter 246-12 WAC, Part 8(~~(-)~~);

(6) Verification from all states in which the applicant holds or has held a license, whether active or inactive, indicating that the applicant is or has not been subject to charges or disciplinary action for unprofessional conduct or impairment; and

(7) Additional documentation as required by the secretary to determine whether an applicant is eligible for licensure.

AMENDATORY SECTION (Amending WSR 98-21-086, filed 10/21/98, effective 11/21/98)

WAC 246-850-050 Approved internship or residency requirement. (~~(Applicants must complete an internship of at least 1900 hours in each area for which a license is sought. Individual internships must be completed within a minimum period of one year and a maximum period of two years unless extended by the secretary for good cause shown. The internship or residency must be completed under a supervisor qualified by training and experience in an established facility and incorporate patient management and clinical experience in rehabilitation, acute and chronic care in pediatrics and of adults. Applicants who submit evidence of completion of a 1900 hour internship or residency which is approved by the National Commission on Orthotic and Prosthetic Education (NCOPE) or Commission for Accreditation of Allied Health Education Programs (CAAHEP) are considered to have met the requirements of this section. The 1900 hours of internship training must be completed subsequent to graduation from an approved program.)~~) (1) An applicant shall submit evidence of successful completion of a clinical internship or residency approved by NCOPE or CAAHEP.

(2) The clinical internship or residency in either orthotics or prosthetics must be at least one year in duration.

(3) The combined clinical internship or residency in both orthotics and prosthetics must be at least eighteen months in duration.

AMENDATORY SECTION (Amending WSR 99-07-122, filed 3/24/99, effective 4/24/99)

WAC 246-850-060 Examination requirements. (1) An applicant for licensure as an orthotist (~~(must)~~) shall successfully complete the following examinations:

(a) The orthotic written multiple choice examination prepared and administered by the American Board for Certification in Orthotics (~~(and Prosthetics, Inc., administered after July 1, 1991. The passing score is determined by utilizing a criterion referenced cut score methodology.)~~), Prosthetics and Pedorthics;

(b) The orthotic written simulation examination prepared and administered by the American Board for Certification in Orthotics (~~(and Prosthetics, Inc., administered after July 1, 1991. The passing score is determined by utilizing a criterion referenced cut score methodology.)~~), Prosthetics and Pedorthics; and

(c) The Washington state jurisprudence examination.

(2) An applicant for licensure as a prosthetist (~~(must)~~) shall successfully complete the following examinations:

(a) The prosthetic written multiple choice examination prepared and administered by the American Board for Certi-

fication in Orthotics ~~((and))~~, Prosthetics ~~((-Inc., administered after July 1, 1991. The passing score is determined by utilizing a criterion-referenced cut score methodology.))~~ and Pedorthics:

(b) The prosthetic written simulation examination prepared and administered by the American Board for Certification in Orthotics ~~((and))~~, Prosthetics ~~((-Inc., administered after July 1, 1991. The passing score is determined by utilizing a criterion-referenced cut score methodology.))~~ and Pedorthics; and

(c) The Washington state jurisprudence examination.

(3) An applicant who has successfully completed examinations administered by the American Board for Certification in Orthotics, Prosthetics and Pedorthics prior to July 1, 1991, may be considered by the secretary in order to determine if the applicant meets alternative standards that are substantially equivalent.

AMENDATORY SECTION (Amending WSR 98-21-086, filed 10/21/98, effective 11/21/98)

WAC 246-850-110 Approval of orthotic and prosthetic educational programs. ~~((1) For purposes of WAC 246-850-020,))~~ The secretary recognizes as approved those orthotic and prosthetic programs ~~((that:~~

~~(a) Are))~~ approved by ~~((the National Commission on Orthotic and Prosthetic Education (NCOPE) or its successor, or the Commission on Accreditation of Allied Health Programs (CAAHEP) or its successor))~~ NCOPE, CAAHEP or any other accrediting body with substantially equivalent requirements ~~((;-and~~

~~(b) Meet the requirements of subsections (2) and (3) of this section.~~

~~(2) Approved baccalaureate degree programs or certificate programs must have as prerequisites the following college level coursework:~~

- ~~(a) Biology.~~
- ~~(b) Psychology.~~
- ~~(c) Physics.~~
- ~~(d) Chemistry.~~
- ~~(e) Physiology.~~
- ~~(f) Human anatomy.~~
- ~~(g) Algebra/higher math.~~

~~(3) Approved baccalaureate degree programs or certificate programs must include the following coursework within a minimum of three quarters or two semesters, or in a substantially equivalent accelerated program, in each practice area for which a license is sought.~~

- ~~(a) Orthotics only:~~
 - ~~(i) Lower extremity orthotics.~~
 - ~~(ii) Upper extremity orthotics.~~
 - ~~(iii) Spinal orthotics.~~
 - ~~(iv) Pathophysiology.~~
 - ~~(v) Biomechanics and kinesiology.~~
 - ~~(vi) Radiographic interpretation.~~
 - ~~(vii) Normal and pathological gait.~~
 - ~~(viii) Clinical evaluation.~~
 - ~~(ix) Clinical affiliation.~~
 - ~~(x) Research methods.~~
 - ~~(xi) Practice management.~~

~~(b) Prosthetics only:~~

- ~~(i) Lower extremity prosthetics.~~
- ~~(ii) Upper extremity prosthetics.~~
- ~~(iii) Pathophysiology.~~
- ~~(iv) Biomechanics and kinesiology.~~
- ~~(v) Radiographic interpretation.~~
- ~~(vi) Normal and pathological gait.~~
- ~~(vii) Clinical evaluation.~~
- ~~(viii) Clinical affiliation.~~
- ~~(ix) Research methods.~~
- ~~(x) Practice management).~~

AMENDATORY SECTION (Amending WSR 98-21-086, filed 10/21/98, effective 11/21/98)

WAC 246-850-120 Withdrawal of program approval. Approval of an educational program ~~((s))~~ may be withdrawn by the secretary, as provided in chapter 34.05 RCW and chapter 246-10 WAC, if the program:

~~(1) ((A program))~~ Ceases to be approved by NCOPE or CAAHEP; or

~~(2) Fails to maintain the accreditation standards of NCOPE or CAAHEP((;-or~~

~~(3) Does not meet the minimum curriculum requirements as provided in WAC 246-850-110)).~~

AMENDATORY SECTION (Amending WSR 03-17-093, filed 8/20/03, effective 12/1/03)

WAC 246-850-140 Continuing competency requirements for orthotists and prosthetists. (1) ~~((Beginning on January 1, 2004,))~~ The continuing competency reporting cycle begins with the first full three-year period after initial licensure. All orthotists and prosthetists shall ((report)) attest to completion of continuing competency activities every ((three years. The reporting cycle begins at the first license renewal following initial licensing.

~~(2) Each licensed orthotist and prosthetist shall complete a professional enhancement plan describing the goals the licensee will develop to maintain proficiency in their practice. A professional enhancement plan must be completed in the first year of each three-year reporting period on forms provided by the secretary. The plan may focus on one specific area of practice or broader areas as determined by the individual's goals.~~

~~(3))~~ year at renewal and shall comply with chapter 246-12 WAC, Part 7.

~~(2)~~ All licensed orthotists and prosthetists ~~((must accumulate))~~ shall complete continuing competency hours as follows:

(a) Licensed orthotists ~~((must accumulate))~~ shall complete a minimum of forty-five continuing competency hours every three years in the area of orthotics.

(b) Licensed prosthetists ~~((must accumulate))~~ shall complete a minimum of forty-five continuing competency hours every three years in the area of prosthetics.

(c) Individuals who are licensed as both an orthotist and as a prosthetist ~~((must accumulate))~~ shall complete a minimum of sixty continuing competency hours every three years.

~~((4))~~ (3) For individuals licensed in one discipline, a maximum of eighteen Category 2 continuing competency hours may be earned in any three-year reporting period.

~~((5))~~ (4) For individuals licensed in both disciplines, a maximum of twenty-four Category 2 continuing competency hours may be earned in any three-year reporting period.

~~((6) Refer to chapter 246-12 WAC, Part 7 for additional requirements.)~~ (5) Licensees may alternatively meet the continuing competency requirement if they hold a current certification from the American Board for Certification in Orthotics, Prosthetics and Pedorthics. The required documentation is proof of certification during the three-year cycle.

AMENDATORY SECTION (Amending WSR 03-17-093, filed 8/20/03, effective 12/1/03)

WAC 246-850-150 Classification of categories of continuing competency. Continuing competency activities are distinguished between activities which are sponsored by those organizations listed in subsection (1) of this section and those which are generally either independent ~~((and/or))~~ or unsupervised, or both and are listed in subsection (2) of this section.

(1) Category 1. Courses offered or approved by the following organizations ~~((are presumed to))~~ qualify as Category 1 continuing competency activities. Category 1 activities receive one continuing competency credit hour for every fifty minutes spent in a course or other activity. Licensees ~~((must))~~ shall maintain documentation of attendance at courses. Acceptable documentation includes certificates or receipts with an authorized signature, stamp or seal.

(a) American Board for Certification in Orthotics ~~((and))~~ Prosthetics ~~((-the))~~ and Pedorthics.

(b) Board for Orthotist/Prosthetist Certification.

(c) American Academy of Orthotists and Prosthetists.

(d) American Orthotic and Prosthetic Association.

(e) International Association of Orthotics and Prosthetics.

(f) International Society of Prosthetics and Orthotics.

(g) Association of American Children's Orthotics and Prosthetics Clinics.

(h) Canadian Orthotic and Prosthetic Association.

(i) Any school or college of orthotics or prosthetics ~~((whose standards are deemed sufficient))~~ approved by the secretary under RCW 18.200.050(5).

(j) Relevant school or college courses from an institution accredited by a recognized regional accrediting body.

(k) Relevant courses or seminars offered by organizations or associations such as the American Society of Orthopedic Surgeons, the American Academy of Physical Medicine and Rehabilitation, the American College of Sports Medicine, the American Medical Association, the American Occupational Therapy Association, the American Physical Therapy Association, the American Osteopathic Association, and the American Podiatric Medical Association.

(l) Manufacturer courses approved/sponsored by organizations listed in subsection ~~((s))~~ (1)(a) through (k) of this section.

(2) Category 2. Category 2 continuing competency activities are primarily either independent ~~((and/or))~~ or unsuper-

vised ~~((and consistent with the goals specified in the individual licensee's professional enhancement plan))~~, or both. Licensees ~~((must))~~ shall maintain documentation of completion of Category 2 activities. The following activities, and designated continuing competency credit hours, are considered Category 2 continuing competency:

(a) Relevant allied health seminars not identified as Category 1 activities. A credit hour is fifty minutes spent in a course or other activity. A maximum of five continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation includes certificates or receipts with an authorized signature, stamp or seal.

(b) Practice management. For the purpose of this section, practice management includes only those activities which are directly related to patient care. A credit hour is fifty minutes spent in this activity. A maximum of three continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation includes verification of completion of a course or seminar, or a written certification by the licensee describing the activity, the total time required to complete the activity and the date completed.

(c) Journal reading, including electronic publications that are consistent with the goals specified in the individual licensee's professional enhancement plan.

(i) Scientific journals with required examination ~~((:))~~. Each examination qualifies for two continuing competency credit hours. A maximum of six continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation is a certificate issued by the sponsoring organization or author showing successful completion of the examination.

(ii) Scientific journals not requiring an examination ~~((:))~~. Each report qualifies for one continuing competency credit hour. A maximum of three continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation for each article is a written report identifying the publication source, author, publication date, and a summary of at least five points from the article.

(iii) Business journals ~~((:))~~. Each report qualifies for one continuing competency credit hour. A maximum of three continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation for each article, is a written report identifying the publication source, author, publication date, and a summary of at least five points from the article.

(d) Instruction video, videodisc or internet courses ~~((:))~~. A credit hour is fifty minutes spent in this activity. A maximum of three continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation is a written report identifying the source of the instruction, the release date, and summarizing at least five points presented in the instruction.

(e) Manufacturer courses sponsored by organizations not identified as Category 1 activities ~~((:))~~. A credit hour is fifty minutes spent in this activity. A maximum of three continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation

includes certificates or receipts with an authorized signature, stamp or seal.

(f) Participating in peer review((:)). For the purpose of this section, peer review means either serving on a formal peer review panel, committee or individual review of a sole provider, where the purpose of the review is to determine whether appropriate treatment was rendered, or whether the services rendered were within accepted standards. Each occurrence qualifies for three credit hours. A maximum of nine continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation is a certification signed by the facilitator of the peer review providing the date and the total time spent in the peer review process.

(g) Student or peer mentoring((:)).

(i) Student mentoring. Each four-hour period spent in this activity qualifies for one credit hour. A maximum of three continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation is a copy of the mentoring contract or agreement and a certification from the student substantiating the date(s) engaged in mentoring and the total mentoring time.

(ii) Peer mentoring. Each four-hour period spent in this activity qualifies for one credit hour. A maximum of three continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation is a certification summarizing the subject of the mentoring, the date, and total mentoring time and signed by the licensee and at least one other practitioner participating in the mentoring activity.

(h) Documented group study((:)). A credit hour is fifty minutes spent in this activity. A maximum of six continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation is a summary of the group study topics, the date, and total group study time, signed by the facilitator or other authorized personnel.

(i) Grand rounds((:)). Each report qualifies for one credit hour. A maximum of three continuing competency credit hours may be earned in this activity in any three-year reporting period. Acceptable documentation is a report summarizing the cases presented, the location, date, and total time spent in the grand rounds activity and signed by the facilitator or other authorized personnel.

(j) Presentation or lecture to professional group((:)). Each presentation or lecture qualifies for two credit hours. A maximum of six continuing competency credit hours may be earned in this activity in any three-year reporting period. Credit for subsequent presentations will only be considered if the licensee can demonstrate that substantial additional preparation was required. Acceptable documentation is a course outline and a certification from the licensee providing the location, date and total presentation time.

(k) Other activities that enhance or expand the practice may be submitted to the secretary for consideration.

AMENDATORY SECTION (Amending WSR 03-17-093, filed 8/20/03, effective 12/1/03)

WAC 246-850-160 Auditing for compliance. Licensed orthotists and prosthetists ~~((must))~~ shall comply with continuing competency auditing and documentation requirements as required in chapter 246-12 WAC, Part 7 ~~((If audited, the licensee will be required to submit the professional enhancement plan and documentation of completion of the activities projected in the plan))~~ and WAC 246-850-150. The secretary may require additional information as needed to ~~((assess the compliance))~~ complete the audit.

AMENDATORY SECTION (Amending WSR 15-19-149, filed 9/22/15, effective 1/1/16)

WAC 246-850-990 Orthotic and prosthetic fees. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Original application	
Orthotist application	\$265.00
Prosthetist application	265.00
Active renewal	
Orthotist renewal	125.00
Prosthetist renewal	125.00
Late renewal penalty fee	65.00
Expired credential reissuance fee	190.00
Inactive renewal for orthotist or prosthetist	
Renewal fee	((135.00)) <u>70.00</u>
Late renewal fee	((70.00)) <u>50.00</u>
Retired active renewal for orthotist or prosthetist	
Renewal fee	((135.00)) <u>70.00</u>
Late renewal fee	((70.00)) <u>50.00</u>
Duplicate credential	30.00
Verification of credential	30.00

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-850-040 Licensure without examination.

WAC 246-850-130 Continuing competency scope and purpose.

WSR 19-09-067
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed April 16, 2019, 11:36 a.m., effective May 17, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-831-040 Reflexology educational requirements, the department has adopted rule amendments to update the educational curriculum requirements that a reflexology program must provide to students. The amendment makes it clearer that the schools are required to have in-person training of body systems that relate to reflexology. The language in this section is also amended to update it to currently established industry terminology.

Citation of Rules Affected by this Order: Amending WAC 246-831-040.

Statutory Authority for Adoption: RCW 18.108.085.

Adopted under notice filed as WSR 19-03-046 on January 9, 2019.

A final cost-benefit analysis is available by contacting Brandon Williams, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-3203, fax 360-236-2901, TTY 360-833-6388 or 711, email brandon.williams@doh.wa.gov, web site doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: April 12, 2019.

John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 13-12-044, filed 5/31/13, effective 7/1/13)

WAC 246-831-040 Educational requirements. Training in reflexology must include a minimum of two hundred hours of instruction. One hour of instruction is defined as fifty minutes of actual instructional time. The two hundred hours shall consist of the following:

(1) Thirty hours of reflexology theory, history, zones, reflex ((~~points~~)) maps and relaxation response, and contraindications;

(2) Forty hours of in-person, classroom study of body systems as related to reflexology:

(a) The study of the leg, feet, hands and outer ears as structures;

(b) Hands-on palpation of landmarks and reflex points with sensory identification of palpated areas;

(c) A map of reflexes as they are anatomically reflected on the feet, hands and outer ears; and

(d) How the reflexes are affected by stimulation to the feet, hands and outer ears through hands-on experience.

(3) Thirty hours of anatomy and physiology;

(4) Five hours of business practice involving ethics, business standards and local/state laws and ordinances pertaining to the practice of reflexology;

(5) Twenty-five hours or more of supervised practicum or clinical work; and

(6) Seventy hours of additional ~~((homework hours that can include giving and))~~ course work which can include the practice of documenting client reflexology sessions ((as well as other written work)).

WSR 19-09-080

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed April 17, 2019, 10:10 a.m., effective May 18, 2019]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The university is updating the Washington State University Health Sciences Spokane campus parking and traffic regulations. The campus name and the title of the chapter are also updated to reflect current university naming conventions.

Citation of Rules Affected by this Order: New WAC 504-14-370; and amending WAC 504-14-010, 504-14-020, 504-14-050, 504-14-100, 504-14-200, 504-14-210, 504-14-220, 504-14-250, 504-14-300, 504-14-350, 504-14-410, 504-14-420, 504-14-440, 504-14-450, 504-14-460, 504-14-510, 504-14-520, 504-14-540, 504-14-560, 504-14-580, 504-14-600, 504-14-650, 504-14-750, 504-14-810, 504-14-860, 504-14-865, 504-14-870, 504-14-880, 504-14-885, 504-14-920, 504-14-930, and 504-14-940.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 19-04-105 on February 6, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 32, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 32, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 32, Repealed 0.

Date Adopted: April 17, 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 suspend, 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) 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) 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) 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))~~ (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, prorated 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 pub-

lic 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 acces-

sibility 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.

~~(2) Reduction of fines. ((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 university-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.