



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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FILED

DATE: August 23, 2022

TIME: 2:10 PM

WSR 22-17-140

Agency: Department of Health

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 21-14-010 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 246-341 WAC, Behavioral Health Agency Licensing and Certification Requirements. The Department of Health (department) is proposing to update the chapter of rules for licensed and certified behavioral health agencies as the next step in a multi-phase plan to modernize licensing and certification requirements.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
09/27/2022	1:30pm	In response to the coronavirus disease 2019 (COVID-19), the Department of Health will not provide a physical location for this hearing. This promotes social distancing and helps provide for the safety of the citizens of Washington State. A virtual public hearing, without a physical meeting space, will be held instead. Register in advance for this webinar: https://us02web.zoom.us/webinar/register/WN_M4_9fcEWRmW04gnp5_crXg After registering, you will receive a confirmation email containing information about joining the webinar.	

Date of intended adoption: 10/04/2022 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Julie Tomaro
Address: PO Box 47843, Olympia, WA 98504
Email: <https://fortress.wa.gov/doh/policyreview>
Fax: 360-236-2321
Other: None
By (date) 09/27/2022

Assistance for persons with disabilities:

Contact Julie Tomaro
Phone: 360-236-2937
Fax: 360-236-2321
TTY: 711
Email: Julie.tomaro@doh.wa.gov
Other:
By (date) 09/20/2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is proposing to amend chapter 246-341 WAC to continue implementing a multi-phase workplan that was initiated in 2020, focused on modernizing licensing and certification requirements for behavioral health agencies. The proposed rules reduce duplicative, inefficient, burdensome and unnecessary regulations; align mental health and substance use disorder standards to support agencies providing co-occurring services and create consistency in service delivery; allow agencies more flexibility to adjust their services to meet the needs of their community; and increase access to care by supporting the use of telehealth and mobile services.

Reasons supporting proposal: The department began regulating behavioral health agencies in 2018, at which time it became aware of several policy issues that needed to be addressed to bring the regulations up to date and in alignment with the department's mission. Phase one of the rulemaking project, consisting of general clean-up and clarification of the chapter, was completed in 2020. Since then, the coronavirus disease 2019 (COVID-19) pandemic has changed the landscape of behavioral services, resulting in an increased need for accessible services and innovative ways of delivering them. The rules must be amended to complete phase two of the workplan, incorporate new policy ideas to address the needs identified during the pandemic, and to support increased and equitable access to quality behavioral health services.

Statutory authority for adoption: RCW 71.24.037, RCW 71.05.560, RCW 71.34.380

Statute being implemented: RCW 71.24.015, RCW 71.24.400

Is rule necessary because of a:

Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Washington State Department of Health

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Julie Tomaro	111 Israel Road SE, Tumwater, WA 98501	360-236-2937
Implementation:	Julie Tomaro	111 Israel Road SE, Tumwater, WA 98501	360-236-2937
Enforcement:	Julie Tomaro	111 Israel Road SE, Tumwater, WA 98501	360-236-2937

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Julie Tomaro

Address: PO Box 47843, Olympia, WA 98504

Phone: 360-236-2937

Fax: 360-236-2321

TTY: 711

Email: Julie.tomaro@doh.wa.gov

Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: See explanation in Section 2 of this form.

(2) Scope of exemptions: *Check one.*

The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)): The following are exempt under RCW 34.05.310 as follows:

WAC Sections and Title	Exempt Proposed Rules
WAC 246-341-0100 Behavioral health-Purpose and scope.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0200 Behavioral Health-Definitions	The proposed changes are exempt under RCW 34.05.310(4)(d). The proposed changes clarify the meaning of terms used throughout the rules.
WAC 246-341-0320 Agency licensure and certification-On-site reviews and plans of correction.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0365 Agency licensure and certification-fee requirements.	This section of rule is exempt from analysis under RCW 34.05.310(4)(f), as it relates to the setting or adjusting of fees.
WAC 246-341-0425 Agency Administration-Individual service record system.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0510 Personnel-Agency record requirements.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.

WAC 246-341-0605 Complaint process.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0650 Access to individual service records.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
NEW WAC 246-341-0680 Emergency service patrol-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0720 Supported employment mental health and substance use disorder services-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0722 Supportive housing mental health and substance use disorder services-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0725 Mental health peer respite-Certification standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
NEW 246-341-0737 Behavioral health outpatient intervention, assessment, and treatment services-Certification standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0740 Deferred prosecution under RCW 10.05.150-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0746 Alcohol and drug information school-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0805 Outpatient less restrictive alternative (LRA) or conditional release support behavioral health services-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-0815 Substance use disorder counseling for RCW 46.61.5056-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
NEW WAC 246-341-0912 Designated crisis responder services-Certification standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1015 Opioid treatment programs (OTP)-Individual service record content and documentation requirements.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1020 Opioid treatment programs (OTP)-Medical director responsibility.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1100 Withdrawal management-Certification standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1108 Residential and inpatient substance use disorder treatment services-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.

WAC 246-341-1118 Residential and inpatient mental health services-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1124 Residential and inpatient mental health services-Rights related to antipsychotic medication.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
NEW WAC 246-341-1131 Involuntary behavioral health residential and inpatient services-Certification standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
NEW WAC 246-341-1133 Evaluation and treatment services-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
NEW WAC 246-341-1135 Secure withdrawal management and stabilization services-Service standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1137 Intensive behavioral health treatment services-Certification standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1140 Crisis stabilization unit and triage-Certification standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1154 Competency evaluation and restoration.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1156 Competency evaluation and restoration-Rights	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
WAC 246-341-1158 Competency evaluation and restoration-Seclusion and restraint	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.
NEW WAC 246-341-1200 Problem gambling and gambling disorder services-Certification standards.	This section of rule is exempt from analysis under RCW 34.05.310(4)(d). The change clarifies the language in the rule without changing its effect.

The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

Description of the proposed rule, including: a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

In 2018, the legislature transferred authority and responsibility for behavioral health agency licensing and certification from the Department of Social and Health Services (DSHS) to the Department of Health (department)

pursuant to Section 10002 of 2ESHB 1388 (chapter 201, Laws of 2018). Subsequently, the department transferred DSHS' chapter of rules to department authority in chapter 246-341 WAC, only incorporating changes necessary to reflect the department's new authority for licensing and certification of behavioral health agencies.

After the establishment of chapter 246-341 WAC, the department became aware of several policy issues that needed to be addressed to bring these regulations up to date and in alignment with the department's mission. The department engaged interested parties and partners to develop a rulemaking work plan that identified the desired scope of this rulemaking project and the preferred approach to addressing the various topics within the chapter. The agreed upon work plan consisted of a three-phase approach:

- Phase one (completed in 2020) - general clean-up and clarification.
- Phase two (current) - re-organization of the chapter including aligning mental health and substance use disorder service standards and streamlining certifications.
- Phase three (proposed for 2022)- aligning standards across behavioral health facility types.

In addition to previously identified policy issues, the pandemic has changed the landscape of behavioral health services resulting in an increased need for accessible services and innovative ways of delivering them. The rules must be amended to continue to implement the multi-phase work plan, incorporate new policy ideas to address the needs identified during the pandemic, and to support increased and equitable access to quality behavioral health services. The department examined and discussed the rules with interested parties and partners to consider what changes might be made to the licensure and certification of services in behavioral health facilities, and to consider incorporating and implementing other recommendations and legislative directives.

The majority of the proposed changes to the rule are intended to increase flexibility and decrease the administrative burden associated with licensing processes. The areas of the proposed rule that do add compliance requirements for providing certain services are meant to align requirements for substance use disorder and mental health services, making it easier for agencies to provide co-occurring services and assuring that similar standards are applied to both services. The additional compliance requirements do not require changes in staffing or the need for professional services in order for the agency to be in compliance.

The following businesses are required to comply with the proposed rule. The North American Industry Classification System (NAICS) codes are used. The minor cost thresholds are as follows.

SBEIS Table 1. NAICS codes and minor cost thresholds.

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	# of businesses in WA	Minor Cost Threshold = 1% of Average Annual Payroll	Minor Cost Threshold = .3% of Average Annual Receipts
621420	This industry comprises establishments with medical staff primarily engaged in providing outpatient services related to the diagnosis and treatment of mental health disorders and alcohol and other substance abuse.	423	\$27,711.25	\$3,911.27
623220	This industry comprises establishments primarily engaged in providing residential care and treatment for patients with mental health and substance abuse illnesses.	34	\$33,718.17	\$21,139.34

The following is an analysis of the probable cost of compliance. The probable costs to comply with the proposed rule, may include: cost of equipment; supplies; labor; professional services; and increased administrative costs. Whether compliance with the proposed rule will cause businesses to lose sales or revenue was also considered.

The department worked with behavioral health agency workshop participants to determine which of the proposed rule changes or new rule sections represent a change in cost. Based on these discussions, the department distributed a cost survey to all participants, partners, and interested parties asking for their cost information. The survey was distributed via email and a SurveyMonkey link was included. The survey was open from March 23 through April 6, 2022. Twenty-one behavioral health agencies responded to the survey.

Survey questions were grouped based on the type of certification held by a behavioral health agency or types of services provided. Survey respondents were asked whether they currently hold a particular certification or provide a distinct type of service. If they answered “yes” they were directed to the applicable question/set of questions. If they answered “no” they were directed to the next certification/service type. Several questions were applicable to all agencies.

For purposes of the analysis, increased cost was defined as the costs to adhere to the proposed rule that are in addition to what an agency already expends, both up front and ongoing. One-time costs or initial cost estimates were defined as a cost that occurs only once. Recurrent costs were defined as costs that occur each year on a continuous basis.

The probable costs of compliance to the proposed rule are presented by WAC section in SBEIS Table 2 below.

SBEIS Table 2. Probable costs of compliance to the proposed rule by WAC Section.

<u>WAC Section and Title</u>	<u>Probable One-Time Cost(s) (Range)</u>	<u>Probable Annual recurrent Cost(s) (Range)</u>
WAC 246-341-0110 Behavioral health-Available certifications.	Cost neutral or insignificant up to \$2,000	Cost neutral or insignificant up to \$2,000
WAC 246-341-0335 Agency licensure and certification-Denials, suspensions, revocations, and penalties.	Cost neutral or insignificant	Cost neutral or insignificant
WAC 246-341-0342 Agency licensure and certification-Off-site locations.	Cost neutral or insignificant up to \$1,000,000	Cost neutral or insignificant up to \$300,000
WAC 246-341-0420 Agency administration-Policies and procedures.	Cost neutral or insignificant up to \$10,000	Cost neutral or insignificant up to \$5,000
WAC 246-341-0515 Personnel-Agency staff requirements.	Cost neutral or insignificant	Cost neutral or insignificant
WAC 246-341-0640 Individual service record content.	Cost neutral or insignificant	Cost neutral or insignificant
NEW WAC 246-341-0660 Behavioral health information and assistance-Certification standards.	Cost neutral or insignificant	Cost neutral or insignificant
NEW WAC 246-341-0670 Crisis telephone support services-Service standards.	Cost neutral or insignificant up to \$400	Cost neutral or insignificant

WAC 246-341-0700 Behavioral health support services-Certification standards.	Cost neutral or insignificant	Cost neutral or insignificant up to \$70,000
WAC 246-341-0713 Psychiatric medication monitoring services-Service standards.	Cost neutral or insignificant up to \$2,000	Cost neutral or insignificant up to \$500
NEW WAC 246-341-0715 Crisis support services-Service standards.	Cost neutral or insignificant	Cost neutral or insignificant
WAC 246-341-0730 Clubhouses-Certification standards.	No costs were indicated	No costs were indicated
WAC 246-341-0820 Driving under the influence (DUI) substance use disorder assessment services-Service standards.	Cost neutral or insignificant up to \$500	Cost neutral or insignificant
NEW WAC 246-341-0901 Outpatient behavioral health crisis outreach, observation and intervention services-Certification standards	Cost neutral or insignificant up to \$200	Cost neutral or insignificant
NEW WAC 246-341-1105 Behavioral health residential and inpatient intervention, assessment, and treatment services-Certification standards.	Cost neutral or insignificant up to \$400	Cost neutral or insignificant
NEW WAC 246-341-1300 Applied behavior analysis mental health services-Certification standards.	The department does not anticipate costs for this proposed rule change.	The department does not anticipate costs for this proposed rule change.
All WAC Sections: Policies and Procedures	Cost neutral or insignificant up to \$150,000 Median response: \$3,200	Cost neutral or insignificant up to \$10,000 Median response: \$0

The following is an analysis of whether the proposed rule may impose more than minor costs on businesses in the industry.

Of the 21 behavioral health agencies that responded to the survey, 18 indicated that they are certified by the department to provide outpatient services and 2 indicated that they are certified to provide both outpatient and residential services. The department was unable to ascertain the certification status of one survey respondent because they did not provide any identifying information. Since no survey respondents are certified solely for residential services, the department made the decision to use the minor cost threshold associated with outpatient services, and subsequently the lower minor cost threshold within the relevant NAICS codes of \$3,911.27.

This analysis captures the cost responses from 15 of the 21 respondents. Four respondents were excluded from the analysis because they did not provide any responses to the survey questions and the department cannot verify nor assume that they had a cost impact. One respondent was excluded from the analysis because they provided a cost estimate but indicated that they did not understand the question. One respondent was excluded

from the analysis because although they provided cost estimates for several of the questions, their explanation of the costs indicated that they were incorrectly interpreting the proposed rule change.

For the purpose of this analysis, probable one-time costs include all costs that the business indicated were needed to comply with all of the proposed rule changes. Probable recurrent costs include all of the costs that the business indicated were needed to comply with all of the proposed rule changes. Probable first year costs are the one-time costs plus single year annual recurrent costs. An answer of “cost neutral or insignificant” was assigned a value of \$0 in calculating the median but reported out as cost neutral or insignificant.

One agency provided a qualitative response for the ceiling of probable recurrent costs (“significant increase”). Since the department was unable to assign a dollar amount to this response, it was excluded from the calculations for probable annual recurrent costs and for median annual recurrent costs in SBEIS Table 2 and SBEIS Table 3.

SBEIS Table 3. Probable cost per business to comply with the proposed rule.

	<u>Probable One-Time Cost(s) (Range)</u>	<u>Probable Annual recurrent Cost(s) (Range)</u>	<u>Probable First Year Cost(s)* (Range)</u>
<u>Cost per business to comply with the proposed rule</u>	Cost neutral or insignificant up to \$150,000** Median response: \$1,600	Cost neutral or insignificant up to \$70,000** Median response: Cost neutral or insignificant	Cost neutral or insignificant up to \$220,000 Median response: \$3,050

* Probable First Year Costs are one-time costs plus one year of annual recurrent costs.

** One agency estimated a probable one-time cost of \$1,000,000 and a probable recurrent cost of \$300,000 for the proposed rule change pertaining to licensure of mobile units. No explanation of costs was provided, and since the proposed rule change is not requiring agencies to purchase and set up mobile units, but rather comply with the rules of having a mobile unit, these estimates were excluded from the analysis in the portions identifying the minor costs and the disproportionate impacts. Other one-time and recurrent costs provided by this agency were included in the analysis.

The department decided to analyze the data to show the median cost of compliance per business in SBEIS Table 3 in order to show the vast variability between responses. The department’s analysis shows that the median cost of compliance with the proposed rule per business in the first year is \$3,050 (one-time cost-plus single year recurrent costs). The median cost of compliance per business is below the minor cost threshold of \$3,911.27. Less than half of respondents (47%) had a probable first year cost that was over the minor cost threshold.

Due to the fact that 47% of businesses surveyed reported cost impacts to comply with the proposed rule of more than the minor cost threshold of \$3,911.27, the department determines that the proposed rule may impose more than minor costs on the industry.

The following is an analysis of whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Of the 21 behavioral health agencies that responded to the survey, 8 indicated that they are small businesses (50 or fewer employees) and 12 indicated that they are large businesses (51 or more employees). The department was unable to ascertain the status of one survey respondent, because they did not answer the question and did not provide any identifying information.

This analysis captures the cost responses of 14 of 21 respondents (6 small businesses and 8 large businesses). The same six businesses were excluded as from Section 4. One additional respondent was excluded because the department could not categorize them as either a small or large business.

The method used to calculate the median one-time and recurrent costs is the same as that described in when identifying whether the proposed rule may impose more than minor costs on businesses in a industry. The method used to calculate probable first year costs is the same as described in Section 4. An answer of “cost neutral or insignificant” was assigned a value of \$0 in calculating the median but reported out as cost neutral or insignificant.

SBEIS Table 4. Cost of compliance to the proposed rule for small businesses and large businesses

	<u>Probable One-Time Cost(s) (Range)</u>	<u>Probable Annual Recurrent Cost(s) (Range)</u>	<u>Probable First Year* Cost(s) (Range)</u>
<u>Cost per small business to comply with the proposed rule</u>	Cost neutral or insignificant up to \$10,000** Median response: \$1,150	Cost neutral or insignificant up to \$15,000** Median response: \$150	Cost neutral or insignificant up to \$25,000 Median response: \$1,300
<u>Cost per large business to comply with the proposed rule</u>	Cost neutral or insignificant up to \$150,000 Median response: \$9,500	Cost neutral or insignificant up to \$70,000 Median response: Cost neutral or insignificant	Cost neutral or insignificant up to \$220,000 Median response: \$12,000

* Probable First Year Costs are one-time costs plus one year of annual recurrent costs.

** One small business estimated a probable one-time cost of \$1,000,000 and a probable recurrent cost of \$300,000 for the rule change pertaining to licensure of mobile units. No explanation of costs was provided, and since the rule change is not requiring agencies to purchase and set up mobile units, but rather comply with the rules of having a mobile unit, these estimates were excluded from the analysis in Sections 4 and 5. Other one-time and recurrent costs provided by this agency were included in the analysis.

The department decided to analyze the data to show the median cost of compliance per business in SBEIS Table 4 in order to show the vast variability between responses. The department’s analysis shows that the median cost of compliance with the proposed rule per small business in the first year is \$1,300 (one-time cost-plus single year recurrent costs). The median cost of compliance per small business is below the minor cost threshold of \$3,911.27.

The median cost of compliance with the proposed rule per large business in the first year is \$12,000 (one-time cost-plus single year recurrent costs). The median cost of compliance per large business is above the minor cost threshold of \$3,911.27.

One out of 6 (17%) small businesses that responded to the survey had a probable first year cost above the minor cost threshold. The highest probable cost for the first year of compliance for a small business was \$25,000. Two small businesses had probable first year costs that were neutral or insignificant. The three remaining small businesses had probable first year costs of \$1,000, \$1,600 and \$3,050, all below the minor cost threshold of \$3,911.27.

Six out of 8 (75%) large businesses had a probable first year cost that was over the minor cost threshold. The highest possible cost for the first year of compliance for a large business was \$220,000. One large business had a probable first year cost that was neutral or insignificant. The six remaining large businesses had probable first year costs of \$1,600, \$4,800, \$9,000, \$15,000, \$24,000 and \$28,000.

In line with the department's analysis, the department concludes that the proposed rule does not have a disproportionate impact on small businesses as compared to large businesses.

If the proposed rule has a disproportionate impact on small businesses, the following identifies the steps taken to reduce the costs of the rule on small businesses. If the costs cannot be reduced a clear explanation of why is provided.

The proposed rule does not have a disproportionate impact on small businesses as compared to large businesses.

The following is a description of how small businesses were involved in the development of the proposed rule.

Behavioral health agencies that are subscribed to the department's behavioral health agency GovDelivery listserv received invitations to participate in rulemaking workshops and provided written feedback throughout the entirety of this Phase 2 project. Additionally, the department asked the Health Care Authority and the Washington Council of Behavioral Health to disseminate workshop invitations and information regarding this rules project to their listservs as well.

The following identifies the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

The department does not anticipate that compliance with the proposed rule will result in either jobs created or lost. The proposed rule changes either provide clarification on existing requirements or modify an administrative process with the intent of decreasing administrative burden or cost.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Julie Tomaro
Address: PO Box 47843, Olympia, WA 98504
Phone: 360-236-2937
Fax: 360-236-2321
TTY: 711
Email: Julie.tomaro@doh.wa.gov
Other:

Date: August 23, 2022

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

Title: Chief of Policy for Secretary of Health

Signature:



BEHAVIORAL HEALTH ((SERVICES))—PURPOSE AND SCOPE

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0100 Behavioral health ((services))—Purpose and scope. (1) This chapter establishes state minimum standards for licensed behavioral health agencies.

(2) 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.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0110 Behavioral health ((services))—Available certifications. (1) 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 gambling and gambling disorder services listed below:~~

- ~~(1) Outpatient and recovery support:~~
 - ~~(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 management services;~~
 - ~~(g) Medication monitoring services;~~
 - ~~(h) Day support mental health services;~~
 - ~~(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: Peer support substance use disorder services;~~
 - ~~(o) Recovery support: Mental health peer respite center;~~
 - ~~(p) Recovery support: Applied behavior analysis (ABA) mental health services;~~
 - ~~(q) Consumer-run recovery support: Clubhouse mental health services;~~
 - ~~(r) Substance use disorder level one outpatient services;~~

~~(s) Substance use disorder level two intensive outpatient services;~~
~~(t) Substance use disorder assessment only services;~~
~~(u) Substance use disorder alcohol and drug information school services;~~
~~(v) Substance use disorder information and crisis services;~~
~~(w) Substance use disorder emergency service patrol services; and~~
~~(x) Problem gambling and gambling disorder services.~~
~~(2) Involuntary and court-ordered outpatient services:~~
~~(a) Less restrictive alternative (LRA) or conditional release support behavioral health services;~~
~~(b) Designated crisis responder (DCR) 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; and~~
~~(c) Crisis mental health stabilization 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) Low-intensity (recovery house) residential treatment 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) Intensive behavioral health treatment services;~~
~~(iv) Child long-term inpatient program services;~~
~~(v) Crisis stabilization unit services;~~
~~(vi) Triage — Involuntary services;~~
~~(vii) Triage — Voluntary services; and~~
~~(viii) Competency evaluation and restoration treatment services))~~
must hold one or more of the following certifications:
(a) Behavioral health information and assistance;
(b) Behavioral health support;
(c) Mental health peer respite;
(d) Clubhouse;
(e) Behavioral health outpatient intervention, assessment and treatment;
(f) Behavioral health outpatient crisis, observation, and intervention;
(g) Designated crisis responder services;
(h) Opioid treatment program;
(i) Medically supported withdrawal management;

- (j) Behavioral health residential or inpatient intervention, assessment and treatment;
- (k) Involuntary behavioral health residential or inpatient;
- (l) Intensive behavioral health treatment;
- (m) Crisis stabilization unit and triage;
- (n) Competency restoration;
- (o) Problem gambling and gambling disorder; or
- (p) Applied behavior analysis.
- (2) The type of certification(s) held by the agency determines which behavioral health services the agency is approved to provide.

BEHAVIORAL HEALTH ((SERVICES))—DEFINITIONS

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0200 Behavioral health ((services))—Definitions.

The definitions in this section and RCW ((~~71.05.010~~)) 71.05.020, 71.24.025, and 71.34.020 apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the designated person responsible for the day-to-day operation of either the licensed behavioral health agency, or certified treatment service, or both.

(2) "Adult" means an individual ((~~eighteen~~)) 18 years of age or older. For purposes of the medicaid program, adult means an individual ((~~twenty-one~~)) 21 years of age or older.

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

(4) "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.

(5) "Behavioral health" means the prevention, treatment of, and recovery from any or all of the following disorders: Substance use disorders, mental health disorders, co-occurring disorders, or problem gambling and gambling disorders.

(6) "Behavioral health agency," "licensed behavioral health agency," or "agency" means an entity licensed by the department to provide behavioral health services under chapter 71.24, 71.05, or 71.34 RCW.

(7) "Behavioral health service" means the specific service(s) that may be provided under an approved certification.

(8) "Branch site" means a physically separate licensed site, governed by the same parent organization as the main site, where qualified staff provides certified treatment services.

((~~8~~)) (9) "Campus" means an area where all of the agency's buildings are located on contiguous properties undivided by:

(a) Public streets, not including alleyways used primarily for delivery services or parking; or

(b) Other land that is not owned and maintained by the owners of the property on which the agency is located.

~~((9))~~ (10) "Care coordination" or "coordination of care" 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.

~~((10))~~ (11) "Certified" or "certification" means the status given by the department that authorizes the agency to provide specific ~~((substance use disorder, mental health, and problem gambling and gambling disorder program-specific services))~~ types of behavioral health services included under the certification category.

~~((11))~~ (12) "Child," "minor," and "youth" mean:

(a) An individual under the age of ~~((eighteen))~~ 18 years; or

(b) An individual age ~~((eighteen to twenty-one))~~ 18 to 21 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))~~ 18 to 21 years who receives EPSDT services is not considered a "child" for any other purpose.

~~((12))~~ "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.~~

(13) "Clinical supervision" means regular and periodic activities performed by a mental health professional, co-occurring disorder specialist, or substance use disorder professional licensed, certified, or registered under Title 18 RCW. Clinical supervision may include review of assessment, diagnostic formulation, individual service plan development, 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. In the context of this chapter, clinical supervision is separate from clinical supervision required for purposes of obtaining supervised hours toward fulfilling requirements related to professional licensure under Title 18 RCW.

(14) "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.

(15) "Consent" means agreement given by an individual after being 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 individual can reasonably be expected to understand. Consent can be obtained from an individual's parent or legal representative, when applicable.

(16) "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.

(17) "Co-occurring disorder" means the coexistence 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.

(18) "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.

(19) "Deemed" means a status that is 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.

(20) "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.

(21) "Face-to-face" means either in-person or by way of synchronous video conferencing.

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

(23) "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 gambling and gambling disorder treatment programs under RCW 43.20A.890.

~~((22))~~ (24) "Medical practitioner" means a physician licensed under chapter 18.57 or 18.71 RCW, advance registered nurse practitioner (ARNP) licensed under chapter 18.79 RCW, or physician assistant licensed under chapter 18.71A ~~((or 18.57A))~~ RCW.

~~((23))~~ (25) "Mental health disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

~~((24))~~ (26) "Mental health professional" or "MHP" means a person who meets the qualifications in WAC 246-341-0515 ~~((+5))~~ (4).

~~((25))~~ (27) "Peer counselor" means the same as defined in WAC 182-538D-0200.

~~((26))~~ (28) "Peer support" means services provided by peer counselors to individuals under the supervision of a mental health professional or individual appropriately credentialed to provide substance use disorder treatment. Peer support provides scheduled activities that promote recovery, self-advocacy, development of natural supports, and maintenance of community living skills.

(29) "Problem gambling and gambling disorder" means one or more of the following disorders:

(a) "Gambling disorder" 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 gambling disorder that compromises, disrupts, or damages family or personal relationships or vocational pursuits.

~~((27))~~ (30) "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 or support services, progress in recovery, and progress toward intended outcomes.

~~((28))~~ (31) "Secretary" means the secretary of the department of health.

~~((29))~~ (32) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement chapters 71.05, 71.24, and 71.34 RCW for delivery of behavioral health services.

~~((30))~~ (33) "Substance use disorder professional" or "SUDP" means a person credentialed by the department as a substance use disorder professional (SUDP) under chapter 18.205 RCW.

~~((31))~~ (34) "Substance use disorder professional trainee" or "SUDPT" means a person credentialed by the department as a substance use disorder professional trainee (SUDPT) under chapter 18.205 RCW.

~~((32))~~ (35) "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.

~~((33))~~ (36) "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.

~~((34))~~ (37) "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.

BEHAVIORAL HEALTH ((SERVICES))—AGENCY LICENSURE AND CERTIFICATION

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0300 Agency licensure and certification—General information. The department licenses behavioral health agencies and certifies them to provide behavioral health treatment services. To obtain and maintain licensure and certification, an applicant (~~must~~)

shall meet the requirements of this chapter, applicable local and state rules, and applicable state and federal statutes and regulations. (~~(In addition, the applicant must meet the applicable specific service requirements for all behavioral health treatment services certified by the department.)~~)

(1) The following licensure process in this section does not apply to a tribe that is licensed or seeking licensure via attestation as described in WAC 246-341-0367.

~~((1))~~ (2) Initial licensure of a behavioral health agency - Main site. The applicant shall submit a licensing application for a main site to the department that is signed by the agency's designated official. The application must include the following:

(a) The physical address of the agency;

~~(b) ((A list of the specific services for which the applicant is seeking certification;))~~ The type of certification(s) the agency is requesting, including the behavioral health services the agency will provide under the type of certification(s);

(c) A statement assuring the location where the services will be provided meets the Americans with Disabilities Act (ADA) standards and that any agency-operated facility where behavioral health services will be provided is:

(i) Suitable for the purposes intended, including having adequate space for private personal consultation with an individual and ~~((clinical))~~ individual service record storage that adheres to confidentiality requirements;

(ii) Not a personal residence; and

(iii) Approved as meeting all local and state building and safety requirements, as applicable.

(d) Payment of associated fees according to WAC 246-341-0365;

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

(f) A copy of the disclosure statement and report of findings from a background check of the administrator completed within the previous three months of the application date; and

(g) A copy of the policies and procedures specific to the agency and the certifications and behavioral health services for which the applicant is seeking ~~((certification))~~ approval that address all of the applicable requirements of this chapter.

~~((2))~~ (3) The department may issue a single agency license when the applicant identifies behavioral health treatment services will be provided in multiple buildings and either:

(a) The applicant operates the multiple buildings on the same campus as a single integrated system with governance by a single authority or body over all staff and buildings; or

(b) All behavioral health treatment services will be provided in buildings covered under a single hospital license.

~~((3))~~ (4) Initial licensure of a behavioral health agency - Branch site. To add a branch site, an existing behavioral health agency shall meet the application requirements in subsection (1)(a) through (c) of this section and submit to the department:

(a) A written declaration that a current copy of agency policies and procedures that address all of the applicable requirements of this chapter are accessible to the branch site;

(b) A copy of policies and procedures for any behavioral health certifications and services that ~~((is))~~ are unique to the branch site location, if applicable; and

(c) A copy of the disclosure statement and report of findings from a background check of the administrator completed within the previous three months of the application date, if the administrator of the branch site is different than the administrator of the main site location.

~~((4))~~ (5) License renewal. ~~((a))~~ To renew a main site or branch site license and certification, an agency shall submit to the department a renewal request signed by the agency's designated official. The renewal request must:

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

~~((ii))~~ (b) Include full payment of the specific renewal fee according to WAC 246-341-0365.

~~((b))~~ The department shall renew an agency's main site or branch site license if all the requirements for renewal are met and the renewal request is received before the expiration date of the agency's current license.

~~(5))~~ (6) Amending a license. A license amendment is required when there is a change in the administrator, when adding or removing a certification or behavioral health service, or when closing a location. To amend a license the agency shall submit to the department a licensing application requesting the amendment that is signed by the agency's designated official. The application ~~((process))~~ shall include the following requirements as applicable to the amendment being requested:

(a) Change of the administrator. The application must include a copy of the disclosure statement and report of findings from a background check of the new administrator completed within the previous three months of the application date and within ~~((thirty))~~ 30 days of the change;

(b) Adding a ~~((service))~~ certification. The agency must obtain certification before providing the behavioral health services listed under the certification. The application must include:

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

(ii) A copy of the agency's policies and procedures relating to the new certification and behavioral health service(s) that will be provided; and

(iii) Payment of fees according to WAC 246-341-0365.

(c) Adding a behavioral health service. The agency may add a behavioral health service that is included under its existing certification by submitting the notification of the added service to the department within 30 days of beginning the service. The notification must include:

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

(ii) A copy of the agency's policies and procedures relating to the new behavioral health service(s) that will be provided.

(d) Canceling a behavioral health service or certification.

(i) The agency must provide notice to individuals who receive the service(s) to be canceled. The notice shall be provided at least ~~((thirty))~~ 30 days before the service(s) are canceled and the agency must assist individuals in accessing services at another location.

(ii) The application must include the physical address or addresses of the agency-operated facility or facilities where the service(s) will no longer be provided.

~~((d))~~ (e) Closing a location.

(i) The application must include the name of the licensed agency or entity storing and managing the records, including:

(A) The method of contact, such as a telephone number, electronic address, or both; and

(B) The mailing and street address where the records will be stored.

(ii) When a closing agency that has provided substance use disorder services arranges for the continued storage and management of ~~((clinical))~~ individual service records by a qualified service organization (QSO), the closing agency must enter into a written agreement with the QSO that meets the requirements of 42 C.F.R. Part 2.

(iii) In the event of an agency closure the agency must provide each individual currently being served:

(A) Notice of the agency closure at least ~~((thirty))~~ 30 days before the date of closure;

(B) Assistance with accessing services at another location; and

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

~~((6))~~ (7) Change of ownership.

(a) Change of ownership means one of the following:

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

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

(iii) The current ownership takes on a new owner of five percent or more of the organizational assets.

(b) When a licensed behavioral health agency changes ownership, the agency shall submit to the department ~~((shall require))~~:

(i) An initial license application from the new owner in accordance with subsection (1) of this section. The new agency must receive a new license under the new ownership before providing any behavioral health service; and

(ii) A statement from the current owner regarding the disposition and management of ~~((clinical))~~ individual service records in accordance with applicable state and federal statutes and regulations.

~~((7))~~ (8) Change in location. A licensed behavioral health agency must receive a new license under the new location's address before providing any behavioral health service at that address. The agency shall submit to the department a licensing application requesting a change in location that is signed by the agency's designated official. The application must include:

(a) The new address;

(b) A statement assuring the location meets the Americans with Disabilities Act (ADA) standards and that any agency-operated facility where behavioral health services will be provided is:

(i) Suitable for the purposes intended, including having adequate space for private personal consultation with an individual and ~~((clinical))~~ individual service record storage that adheres to confidentiality requirements;

(ii) Not a personal residence; and

(iii) Approved as meeting all local and state building and safety requirements, as applicable.

(c) Payment of initial licensure fees according to WAC 246-341-0365.

~~((8))~~ (9) Granting a license. A new or amended license or ~~((service-specific))~~ certification will not be granted to an agency until:

(a) All of the applicable notification and application requirements of this section are met; and

(b) The department has reviewed and approved the policies and procedures for initial licensure or addition of new ~~((services))~~ certifications that demonstrate that the agency will operate in compliance with the licensure and ~~((service-specific))~~ certification standards.

~~((9))~~ (10) Effective date. An agency's license and any behavioral health services certification is effective for up to ~~((twelve))~~ 12 months from the effective date, subject to the agency maintaining compliance with the minimum license and certification standards in this chapter.

~~((10))~~ (11) After receiving the license. The agency shall post the department-issued license and certification(s) in a conspicuous place on the agency's premises, and, if applicable, on the agency's branch site premises.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0310 Agency licensure and certification—Deeming.

(1) The department shall deem an agency or branch site as meeting state minimum standards for licensing and certification described in this chapter as a result of accreditation by a national accreditation organization that is recognized by and has a current agreement with the department.

(2) To implement deemed status when opening a new main site agency, adding a new type of certification or behavioral health service to a main site agency, or adding a new type of certification or behavioral health service to a branch site location that is not currently offered at the main site agency, an agency must:

(a) Submit proof of accreditation for the services provided by the agency to the department; and

(b) Complete a department initial on-site review.

(3) To implement deemed status when opening a new branch site location that is providing the same services as a deemed main site agency, or a certification or behavioral health service is being added to a branch site location that is a deemed service at a main site location, an agency must submit proof of accreditation for the services provided by the agency to the department.

(4) The department will not conduct an on-site review as part of the deeming process for tribal behavioral health agencies who seek licensure pursuant to WAC 246-341-0310.

(5) Deeming will be in accordance with the established written agreement between the national accreditation organization and the department.

(6) 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 recognized behavioral health accrediting body and the department.

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

(7) A deemed main site agency or branch site must submit to the department a copy of any relevant reports such as audits, findings, or documentation related to accreditation status.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0320 Agency licensure and certification—On-site reviews and plans of correction. Each agency is subject to an initial on-site review and each agency that is not deemed in accordance with WAC 246-341-0310 is subject to routine, ongoing on-site reviews to determine if the agency is in compliance with the minimum licensure and certification standards.

(1) ~~((A department review team representative(s) conducts))~~ The agency shall participate in an entrance conference ((with the agency)) conducted by the department review team representative(s) and an on-site review ((that)). This may include:

(a) A review of:

(i) Agency policies and procedures;

(ii) Personnel records;

(iii) ~~((Clinical))~~ Individual service 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))~~ agency shall participate in an exit conference ((that)) with the department review team representative(s) at the conclusion of the on-site review which 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))~~ shall 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.

(5) On-site reviews of branch sites will occur at the same time as the main site review and take place at the main site location so long as the department can access the following either electronically or by hard copies brought to the main site agency location:

- (a) Personnel records of employees hired since the previous review;
- (b) A sample of individual (~~(clinical)~~) service records that reflect the services provided at each branch site location; and
- (c) Policies and procedures that are unique to the services provided at the branch site locations.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

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 service)~~) certification(s), place an agency on probation, or suspend, or revoke an agency's license (~~(or specific service)~~), certification, or ability to provide specific behavioral health service(s) 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 review 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 governing person of a nonprofit corporation or agency administrator:
 - (i) Had a license or (~~(specific service)~~) certification issued by the department subsequently denied, suspended, revoked, or any other sanction placed upon a license;
 - (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. A vulnerable adult means the same as defined in (~~(chapter 74.34)~~) RCW 74.34.020;
 - (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 committing 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 an individual or displayed acts of discrimination;
 - (vii) Misappropriated patient (individual) property or resources;
 - (viii) Failed to meet financial obligations or contracted service commitments that affect care of individuals;
 - (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 service~~) 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 service~~) certification(s), place an agency on probation, or suspend or revoke an agency's license (~~or specific service~~), certification(s), or ability to provide specific behavioral health service(s) for any of the following reasons:

(a) The agency voluntarily cancels licensure or certification(s).

(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) If the department denies, suspends, revokes, or modifies the agency's license (~~or specific service~~), certification, or ability to provide specific behavioral health service(s), the department will send a written notice 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 specific service~~), certification(s) (~~or a~~), or ability to provide specific behavioral health service(s) 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 (~~service-specific~~) certification activities, including when the department determines a corrective action is required due to a complaint or incident investigation; and

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

~~(e-))~~ Notify the health care authority and the managed care organization of stopped referrals, suspensions, revocations, or nonrenewal of the agency's license or (~~service-specific~~) certification(s).

WAC 246-341-0342 Agency licensure and certification—Off-site locations. (1) A behavioral health agency may provide certified services at an off-site location or from a mobile unit under the existing behavioral health agency license.

(2) For the purposes of this section:

(a) "Off-site" means the provision of services by 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.

(b) "Established off-site location" means a location that is regularly used and set up to provide services rather than a location used on an individual, case-by-case basis.

(c) "Mobile unit" means a vehicle, lawfully used on public streets, roads, or highways with more than three wheels in contact with the ground, from which behavioral health services are provided at a nonpermanent location(s).

(3) A behavioral health agency that provides ((outpatient)) off-site services at an established off-site location(s) shall:

(a) Maintain a list of each established off-site location where services are provided on a regularly scheduled ongoing basis and 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;

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

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

~~((2))~~ (4) In addition to meeting the requirements in subsection ((1)) (3) of this section, an agency providing services to an individual in their place of residence or services in a public setting that is not an established off-site location where services are provided on a regularly scheduled ongoing basis 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 access to a wireless telephone or comparable device to any employee, contractor, student, or volunteer when making home visits to individuals.

~~((3) For the purposes of this section:~~

~~(a) "Off-site" means the provision of services by 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.~~

~~(b) "Established off-site location" means a location that is regularly used and set up to provide services rather than a location used on an individual, case-by-case basis.)~~ (5) Before operating a mobile unit, agencies providing behavioral health services from a mobile unit must notify the department in writing in a manner outlined by the department. The notification must include that a mobile unit is being added under the agency license and indicate what services will be provided from the mobile unit, including whether it is operating as a mobile narcotic treatment program as defined in 21 C.F.R. Part 1300.01.

(6) An opioid treatment program operating a mobile narcotic treatment program must:

(a) Submit a copy of the Drug Enforcement Administration (DEA) approval for the mobile narcotic treatment program; and

(b) Comply with 21 C.F.R. Parts 1300, 1301, and 1304.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0365 Agency licensure and certification—Fee requirements. ~~(1) ((Payment of licensing and specific service certification fees required under this chapter must be included))~~ An agency must include payment of licensing and certification fees required under this chapter 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))~~ (3) The department will not ((be refunded)) refund fees when licensure or certification is denied, revoked, or suspended.

~~((5) The department charges))~~ (4) The applicant shall submit 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)) <u>certifications</u>	\$200
Application to change ownership	\$500
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

((Application fees for agency certification for approved substance use disorder treatment programs))	
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) Agencies))~~ (5) An agency providing substance use disorder treatment programs 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))~~ (6) The applicant shall submit the following fees for approved mental health treatment programs:

((Initial licensing application fee for mental health treatment programs))	
Initial 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	
Annual licensing fee for deemed agencies licensed by the department	\$500 ((annual licensing fee))
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))~~ (7) Agencies providing nonresidential mental health services or inpatient or residential mental health services in accordance with WAC 246-341-1118 must report the number of annual service hours provided.

- (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))~~ 12 months of operation.

~~((9))~~ (8) Agencies providing mental health peer respite services, intensive behavioral health treatment services, 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.

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

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 ~~((of))~~, certification ~~((of a))~~, or ability to provide a specific behavioral health service(s) according to WAC 246-341-0335.

BEHAVIORAL HEALTH (~~(SERVICES)~~)—AGENCY ADMINISTRATION

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0420 Agency policies and procedures. Each agency licensed by the department to provide any behavioral health service must develop, implement, and maintain policies and procedures that address all of the applicable licensing and certification requirements of this chapter including administrative and personnel policies and procedures. Administrative 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)) (3) Agency staffing. Documentation that shows the agency has adequate staffing to provide treatment in accordance with regulations relevant to their specialty or specialties and registration, certification, licensing, and trainee or volunteer status.

((5)) (4) 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 LEP 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)) (5) Reasonable access for individuals with disabilities. A description of how reasonable accommodations will be provided to individuals with disabilities.

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

((8)) (7) 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.

((9)) (8) 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.

((10)) (9) Reporting of impaired practitioners in accordance with chapters 18.130 RCW and 246-16 WAC.

((11)) (10) Protection of youth. Documentation of how the agency addresses compliance with service-specific rules and the protection of youth participating in group or residential treatment with adults and how the agency will follow the requirements of chapter 71.34 RCW when an adolescent seeks treatment for themselves and for family initiated treatment of an adolescent.

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

((13)) (12) Reporting critical incidents. A description of how the agency directs staff to report to the department within (~~forty-eight~~) 48 hours any critical incident that occurs involving an individual, and actions taken as a result of the incident. A critical incident is a serious or undesirable outcome that occurs in the agency including:

(a) Allegations of abuse, neglect, or exploitation;

(b) Death, including death by suicide;

(c) Injuries resulting in admission to a hospital as an inpatient; or

(d) Outbreak of communicable disease within the agency.

~~((14))~~ (13) A smoking policy. Documentation that a smoking policy consistent with chapter 70.160 RCW, and in compliance with applicable county ordinances, is in effect.

~~((15))~~ (14) Evacuation plan. Documentation that the residential or inpatient agency has an evacuation plan consistent with chapter 246-320, 246-322, 246-324, or 246-337 WAC. For a nonresidential agency, documentation of 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.

~~((16))~~ (15) Individual rights. A description of how the agency has individual participation rights and policies consistent with WAC 246-341-0600.

~~((17))~~ (16) Individual complaints. A description of how the agency addresses an individual's right to report an alleged violation of chapter 70.41, 71.05, 71.12, 71.24, or 71.34 RCW, and this chapter consistent with WAC 246-341-0605~~((7))~~.

~~((18))~~ (17) Personnel policies and procedures must address the following:

(a) Background checks and disclosure statements. Identification of how the agency conducts Washington state background checks and obtains disclosure statements on each agency employee with unsupervised access to individuals receiving services, consistent with RCW 43.43.830 through 43.43.842.

(b) Drug-free workplace. Identification of how the agency provides for a drug-free workplace that includes:

- (i) Agency program standards of prohibited conduct; and
- (ii) Actions to be taken in the event a staff member misuses alcohol or other drugs, including referral to a department-approved impaired practitioner or voluntary substance use monitoring program.

(c) Supervision. Identification of how supervision is provided to assist clinical and nonclinical staff and volunteers to increase their skills and improve quality of services to individuals and families.

(d) Staff training. A description of how the agency provides training initial orientation and annual training thereafter in accordance with WAC 246-341-0510.

(e) Mental health advanced directives. A description of how the agency will comply with the mental health advanced directive requirements in chapter 71.32 RCW.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0425 Agency administration—Individual ~~((clinical))~~ service record system. Each behavioral health agency must:

- (1) Maintain a comprehensive ~~((clinical))~~ individual service 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))~~ service 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;

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

(d) Provide that each entry made in an individual's ~~((clinical))~~ individual service record~~(s)~~ clearly identifies the author and who approved the entry, if applicable; and

(e) Prohibit agency employees from using another employee's credentials to access, author, modify, or delete an entry from an individual's ~~((clinical))~~ individual service record;

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

(5) Retain a youth's or child's individual ~~((clinical))~~ service record, including an electronic record, for at least six years after the most recent discharge, or until the youth's or child's ~~((twenty-first))~~ 21st birthday, whichever is longer; ~~((and))~~

(6) Ensure secure storage of active or closed confidential records;

(7) When providing access to individual service records to an individual, the agency must allow appropriate time and privacy for the review and have a clinical staff member available to answer questions;

(8) If the agency maintains electronic health records, the agency must make the records available in hard copy form;

(9) The agency must allow the department access to individual service records; and

(10) When an individual receiving mental health services is under the supervision of the department of corrections (DOC), the agency must make information available to DOC, in accordance with RCW 71.05.445. The information released does not require the consent of the individual.

BEHAVIORAL HEALTH ((SERVICES))—PERSONNEL

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0510 Personnel—Agency record requirements.
~~((Each))~~ A behavioral health agency must maintain a personnel record for each person employed by the agency.

- (1) The personnel record must contain all of the following:
 - (a) A signed position description.
 - (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 within ((~~ninety~~)) 90 days of hire that includes all of the following:
 - (i) An overview of the agency's policies and procedures.
 - (ii) Staff ethical standards and conduct, including reporting of unprofessional conduct to appropriate authorities.
 - (iii) The process for resolving client concerns.
 - (iv) Cultural competency.
 - (v) Violence prevention training on the safety and violence prevention topics described in RCW 49.19.030.
 - (vi) If providing substance use disorder services, prevention and control of communicable disease, bloodborne pathogens, and tuberculosis.
 - (d) A record of annual training that includes:
 - (i) Cultural competency; and
 - (ii) If providing substance use disorder services, prevention and control of communicable disease, bloodborne pathogens, and tuberculosis.
 - (e) A record of violence prevention training on the safety and violence prevention topics described in RCW 49.19.030; annually for employees working directly with clients receiving mental health services per RCW 71.05.720 or according to the agency's workplace violence plan required per RCW 49.19.020.
 - (f) A copy of the staff member's valid current credential issued by the department if they provide clinical services.
- (2) Staff members who have received services from the agency must have personnel records that:
 - (a) Are separate from ((~~clinical~~)) individual service records; and
 - (b) Have no indication of current or previous service recipient status, unless the information is shared voluntarily for the purposes of employment as a certified peer counselor.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0515 Personnel—Agency staff requirements. Each behavioral health agency must ensure that all of the following staff requirements are met:

- (1) All staff providing clinical services are appropriately credentialed for the services they provide, which may include a co-occurring disorder specialist enhancement.
- (2) All staff providing clinical services receive clinical supervision((~~+~~)).
- (3) ((~~All staff providing clinical mental health services have access to consultation with a psychiatrist, physician, physician assistant, advanced registered nurse practitioner, or psychologist who has at least one year's experience in the direct treatment of individuals who have a mental or emotional disorder.~~))

~~(4))~~ An agency providing group counseling or group therapy must have a staff ratio of at least one staff member to every ~~((sixteen))~~ 16 individuals during group counseling or therapy sessions.

~~((5))~~ (4) A mental health professional is:

(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; or

(c) An agency staff member with a designation given by the department or an attestation by the licensed behavioral health agency that the person meets the following:

(i) Holds 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;

(ii) Who meets the waiver criteria of RCW 71.24.260, and the waiver was granted prior to 1986; or

(iii) 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.

~~((6))~~ (5) An agency providing problem gambling and gambling disorder treatment services must ensure staffing in accordance with WAC ~~((246-341-0754))~~ 246-341-1200.

BEHAVIORAL HEALTH (~~((SERVICES—CLINICAL))~~) —GENERAL REQUIREMENTS

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0600 (~~((Clinical—))~~) Individual rights. (1) Each behavioral health agency must protect and promote individual participant rights applicable to the services the agency is certified to provide in compliance with this chapter, and chapters 70.41, 71.05, 71.12, 71.24, and 71.34 RCW, as applicable.

(2) Each agency must develop a statement of individual participant rights applicable to the services the agency is certified to provide, to ensure an individual's rights are protected in compliance with chapters 70.41, 71.05, 71.12, 71.24, and 71.34 RCW, as applicable. To the extent that the rights set out in those chapters do not specifically address the rights in this subsection or are not applica-

ble to all of the agency's services, 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 or to address risk of harm to the individual or others. "Reasonable" is defined as minimally invasive searches to detect contraband or invasive searches only upon the initial intake process or if there is reasonable suspicion of possession of contraband or the presence of other risk that could be used to cause harm to self or others;

(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) Participate in the development of your individual service plan and receive a copy of the plan if desired;

(i) Make a mental health advance directive consistent with RCW 71.32.150;

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

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

(3) Each agency must ensure the applicable individual participant rights described in subsections (1) and (2) 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.

(4) At the time of admission and upon client request, the agency must provide each client with information on how to file a report to the department if they feel their rights or requirements of this chapter have been violated.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

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~~) shall 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, behavioral health 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~~) individual service 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 fine under RCW (~~43.70.250~~) 43.70.095, 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~~) department finds 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.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0640 ((Clinical)) Individual service record content.

(~~Each~~) A behavioral health agency is responsible for the components and documentation in an individual's (~~clinical~~) individual service record content unless specified otherwise in (~~specific service~~) certification or individual service requirements.

(1) The (~~clinical~~) individual service record must include:

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

(b) Identifying information.

(c) An assessment which is an age-appropriate, strengths-based psychosocial assessment that considers current needs and the individual's relevant behavioral and physical health history according to best practices, completed by a person appropriately credentialed or qualified to provide the type of assessment pertaining to the service(s) being sought, which includes:

(i) Presenting issue(s);

(ii) An assessment of any risk of harm to self and others, including suicide, homicide, and a history of self-harm and, if the assessment indicates there is such a risk, a referral for provision of emergency/crisis services;

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

(iv) A diagnostic assessment statement, including sufficient information to determine a diagnosis supported by the current and applicable *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*, or *Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood (DC:0-5)*;

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

(d) Individual service plan that:

(i) Is completed or approved by a person appropriately credentialed or qualified to provide mental health, substance use, co-occurring, or problem gambling disorder services;

(ii) Addresses issues identified in the assessment and by the individual or, if applicable, the individual's parent(s) or legal representative;

(iii) Contains measurable goals or objectives and interventions;

(iv) Must be mutually agreed upon and updated to address changes in identified needs and achievement of goals or at the request of the individual or, if applicable, the individual's parent or legal representative;

(v) Must be in a terminology that is understandable to the individuals and the individual's family or legal representative, if applicable.

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

(f) Progress and group notes including the date, time, duration, participant's name, response to interventions or clinically significant behaviors during the group session, and a brief summary of the individual or group session and the name and credential of the staff member who provided it.

(g) If treatment is for a substance use disorder, documentation that ASAM criteria was used for admission, continued services, referral, and discharge planning and decisions.

(h) Discharge information as follows:

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

or

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

(A) The date of discharge;

(B) Continuing care plan; and

(C) If applicable, current prescribed medication.

(2) When the following situations apply, the ~~((clinical))~~ individual service record must include:

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

(i) RCW 70.02.050;

(ii) The Health Insurance Portability and Accountability Act (HIPAA); ~~((and))~~

(iii) RCW 70.02.230 and 70.02.240 if the individual received mental health treatment services; and

(iv) 42 C.F.R. Part 2.

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

(c) If treatment is court-ordered, a copy of the order.

(d) Medication records.

(e) Laboratory reports.

(f) Properly completed authorizations for release of information.

(g) 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.

(h) 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.

(i) 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.

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

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0650 ~~((Clinical))~~ Access to ~~((clinical))~~ individual service records. (1) Each behavioral health agency must only provide access to ~~((clinical))~~ individual service records in compliance with applicable state and federal statutes and regulations.

(2) When providing access to ~~((clinical))~~ individual service records to an individual, the agency must allow appropriate time and privacy for the review and have a clinical staff member available to answer questions.

(3) If the agency maintains electronic ~~((clinical))~~ individual service records, the agency must make the records available in hard-copy form.

(4) The agency must allow the department access to individual ~~((clinical))~~ service records.

(5) When an individual receiving mental health services is under the supervision of the department of corrections (DOC), the agency must make information available to DOC, in accordance with RCW 71.05.445. The information released does not require the consent of the individual.

**CERTIFICATION AND SERVICE STANDARDS FOR BEHAVIORAL HEALTH INFORMATION
AND ASSISTANCE SERVICES**

NEW SECTION

WAC 246-341-0660 Behavioral health information and assistance—Certification standards. (1) Agencies certified for behavioral health information and assistance services provide information and assistance services that are considered nontreatment behavioral health services that support an individual who has a need for interventions related to behavioral health. Behavioral health information and assistance services under this certification include services such as:

(a) Crisis telephone support in accordance with the service standards in WAC 246-341-0670; and

(b) Emergency service patrol in accordance with the service standards in WAC 246-341-0680.

(2) Agencies providing information and assistance services are not required to meet the requirements under WAC 246-341-0640.

(3) Agencies providing information and assistance services must maintain and provide a list of resources, including self-help groups, behavioral health services referral options, legal, employment, education, interpreter, and social and health services that can be used by staff members to refer an individual to appropriate services.

NEW SECTION

WAC 246-341-0670 Crisis telephone support services—Service standards. Crisis telephone support services are services provided as a means of first contact for an individual in crisis or need of assistance. These services may include de-escalation and referral.

(1) A behavioral health agency providing crisis telephone support services must:

(a) Have services available 24 hours per day, seven days per week;

(b) Assure communication and coordination with the individual's mental health or substance use treatment provider, if indicated and appropriate;

(c) Remain on the phone with an individual in crisis in order to provide stabilization and support until the crisis is resolved or referral to another service is accomplished;

(d) As appropriate, refer individuals to voluntary or involuntary treatment facilities for admission on a seven day a week, 24 hour a day basis, including arrangements for contacting the designated crisis responder; and

(e) Develop and implement policies and procedures for training staff to identify and assist individuals in crisis before assigning the staff member to unsupervised duties.

(2) Documentation of a crisis telephone support service must include the following:

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

(b) The names of the participants;

(c) A follow-up plan or disposition, including any referrals for services, including emergency medical services;

(d) Whether an individual has a crisis plan and any request to obtain the crisis plan; and

(e) The name and credential, if applicable, of the staff person providing the service.

(3) A behavioral health agency providing crisis telephone services for substance use disorder must ensure a professional appropriately credentialed to provide substance use disorder treatment is available or on staff 24 hours a day, seven days a week.

NEW SECTION

WAC 246-341-0680 Emergency service patrol—Service standards.

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. A behavioral health 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 40 hours of training in substance use disorder crisis intervention techniques and alcoholism and substance use disorder, 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, or to a substance use disorder treatment program 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 assistance;
- (d) The name 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.

((OUTPATIENT AND RECOVERY)) CERTIFICATION AND SERVICE STANDARDS FOR BEHAVIORAL HEALTH SUPPORT SERVICES

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0700 ~~((Outpatient and recovery)) Behavioral health support services—((General)) Certification standards.~~ ~~((Outpatient behavioral health services and recovery support 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 certifications described in WAC 246-341-0702 through 246-341-0754.~~

~~(2) Recovery support services include the certifications described in WAC 246-341-0720 through 246-341-0730.)~~ (1) Agencies certified for behavioral health support provide services to promote socialization, recovery, self-advocacy, development of natural supports, and maintenance of community living skills for individuals with a behavioral health diagnosis. Behavioral health support services may be provided in community, outpatient, residential and inpatient settings. Behavioral health support services under this certification include services such as:

(a) Psychiatric medication monitoring in accordance with the service standards in WAC 246-341-0713;

(b) Crisis support in accordance with the service standards in WAC 246-341-0715;

(c) Peer support;

(d) Rehabilitative case management;

(e) Day support;

(f) Supported employment in accordance with the service standards in WAC 246-341-0720; and

(g) Supportive housing in accordance with the service standards in WAC 246-341-0722.

(2) An agency certified to provide behavioral health support services is not required to meet the requirements in WAC 246-341-0640, but must instead meet the requirements in subsection (3) of this section.

(3) An agency providing any behavioral health support service must:

(a) Conduct a needs assessment or screening process that determines the appropriateness of the support service(s) based on the individual's needs and goals;

(b) Develop a support plan that indicates the goal(s) the individual intends to achieve through receiving the support service(s) and the progress made toward the goal(s);

(c) Maintain an individual's individual service record that contains documentation of the following:

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

(ii) Determination of the appropriateness of the support service(s);

(iii) A copy of the support plan and progress toward meeting the individual's goal(s);

(iv) Any referral made to a more intensive level of care or emergency services when appropriate;

(v) Consent to include the individual's family members, significant others, and other relevant treatment providers as necessary to provide support to the individual;

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

(vii) Name(s) of participant(s), including the name of the individual who provided the service;

(viii) Any information or copies of documents shared by or with a behavioral health agency or credentialed behavioral health professional; and

(ix) A discharge or disposition statement if the individual left without notice, or discharge or disposition information for an individual who did not leave without notice, completed within seven working days of the individual's discharge or disposition, including the date of discharge and continuing care or follow-up plan.

(4) An agency may use a full assessment and individual service plan if it is certified for intervention, assessment and treatment services or has an agreement with a licensed behavioral health agency certified for intervention, assessment and treatment services in order to meet the requirements in subsection (3)(a) and (b) of this section. The agreement must specify the responsibility for initial assessments, the determination of appropriate services, individual service planning, and the documentation of these requirements.

(5) For the purposes of this section:

(a) Rehabilitative case management means mental health 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. 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. Services include specific rehabilitative services provided to:

(i) Assist in an individual's discharge from an inpatient facility; and

(ii) Minimize the risk of readmission to an inpatient setting.

(b) Day support means an intensive rehabilitative program which provides a range of integrated and varied life skills training such as

health, hygiene, nutritional issues, money management, maintaining living arrangement and symptom management to promote improved functioning or a restoration to a previous higher level of functioning. If counseling or therapy is provided, the agency must obtain a certification for outpatient intervention, assessment and treatment.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0713 ((Outpatient services—)) Psychiatric medication monitoring services—Service standards. (1) Psychiatric medication monitoring 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.

(2) An agency providing medication monitoring 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 monitoring services policy;

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

(i) The maintenance of a medication log documenting the type and dosage of medications, and the time and date;

(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)) individual service record includes documentation of medication monitoring services.

(3) A support plan or an individual service plan is not required when providing psychiatric medication monitoring services.

NEW SECTION

WAC 246-341-0715 Crisis support services—Service standards.

Crisis support services are short-term (less than two weeks per episode) services that include face-to-face and other means of assistance with life skills training and understanding of medication effects on an individual.

(1) An agency providing crisis support services must:

(a) Assure communication and coordination with the individual's mental health or substance use treatment provider, if indicated and appropriate;

(b) If an individual is found to be experiencing an acute crisis, remain with the individual in order to provide stabilization and support until the crisis is resolved or referral to another service is accomplished;

(c) As appropriate, refer individuals to voluntary or involuntary treatment facilities for admission on a seven day a week, 24 hour a day basis, including arrangements for contacting the designated crisis responder;

(d) Transport or arrange for transport of an individual in a safe and timely manner, when necessary;

(e) Document whether the individual has a crisis plan and any request to obtain the crisis plan;

(f) Develop and implement policies and procedures for training staff to identify and assist individuals in crisis before assigning the staff member unsupervised duties; and

(g) Maintain a current list of local resources for referrals, legal, employment, education, interpreter and social and health services.

(2) An agency providing crisis support services for substance use disorder must ensure a professional appropriately credentialed to provide substance use disorder treatment is available or on staff 24 hours a day, seven days a week.

(3) When services are provided in a private home or nonpublic setting, the agency must:

(a) 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 personal residence or in a nonpublic location;

(b) 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 personal residence or other nonpublic location;

(c) Ensure that any staff member who engages in home visits is provided access, by their employer, to a wireless telephone or comparable device for the purpose of emergency communication as described in RCW 71.05.710;

(d) Provide staff members who are sent to a personal residence or other nonpublic 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.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0720 ((~~Outpatient services—Recovery support~~)) Supported employment mental health and substance use disorder services—Service standards. 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) 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);

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

(c) State board for community 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.

(2) 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 of social and health services' 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.

(3) Supported employment services are not required to be provided under clinical supervision.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0722 (~~Outpatient services Recovery support~~) Supportive housing mental health and substance use disorder services—Service standards. 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) 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;
 - (c) Community action councils;
 - (d) Landlords of privately owned residential homes; and
 - (e) State agencies that provide housing resources.
- (2) 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.
- (3) Supportive housing services are not required to be provided under clinical supervision.

CERTIFICATION STANDARDS FOR MENTAL HEALTH PEER RESPITE

AMENDATORY SECTION (Amending WSR 20-07-091, filed 3/17/20, effective 5/1/20)

WAC 246-341-0725 (~~(Recovery support services—Recovery support —)~~**Mental health peer respite—Certification standards.** (1) Mental health peer respite (~~(services are)~~) facilities provide voluntary, holistic, trauma-informed, short-term, noncrisis, peer support services, (~~(provided)~~) in a home-like environment, which focus on recovery and wellness. These services are limited to individuals who are:

- (a) At least (~~(eighteen)~~) 18 years of age;

- (b) Experiencing psychiatric distress but who are not detained or involuntarily committed under chapter 71.05 RCW; and
 - (c) Independently seeking respite services by their own choice.
- (2) An agency certified to provide mental health peer respite services must ~~((be licensed according to this chapter and))~~ meet the ~~((general))~~ behavioral health support certification requirements in ~~((~~
 - ~~(a) WAC 246-341-0718 for recovery support services; and~~
 - ~~(b) WAC 246-341-0724 for peer support services))~~ WAC 246-341-0700.
- (3) An agency certified to provide mental health peer respite services must develop and implement policies and procedures that address how the agency will:
- (a) Have ~~((a memorandum of understanding))~~ an agreement with the local crisis system, including the closest agency providing evaluation and treatment services and designated crisis responders to ensure timely response to and assessment of individuals who need a higher level of care;
 - (b) Be staffed ~~((twenty-four hours))~~ 24 hours per day, seven days a week by certified peer counselors;
 - (c) Be peer-run. This includes:
 - (i) Having a managing board, with a majority of members who are peers, that manages the day-to-day operations of the mental health peer respite center and reports to the agency's governing board; and
 - (ii) Supervision of services by a certified peer counselor who meets the qualifications of a mental health professional.
 - (d) Limit services to an individual to a maximum of seven nights in a ~~((thirty-day))~~ 30-day period; and
 - (e) Develop and implement a guest agreement that establishes expectations for individuals receiving mental health peer respite services, including expectations for things such as: Cooking, cleaning, self-management of medications, and personal hygiene.
- (4) An agency certified to provide mental health peer respite services must provide the services in a residence that meets local building and zoning codes and must develop and implement policies and procedures that address the following:
- (a) Kitchen environment, including kitchen equipment that is in good working repair and follows general principles of safe food handling;
 - (b) Food storage, including how the agency will provide each individual with adequate storage for perishable and nonperishable food items;
 - (c) Laundry facilities, including how the agency will give residents access to laundry facilities and equipment that is clean and in good repair;
 - (d) Housekeeping, including cleaning, maintenance, and refuse disposal;
 - (e) Bedding and linens, including how the agency will provide each individual with clean, sanitary bedding and linens that are in good repair;
 - (f) Secure storage, including how each individual is provided with secure storage for personal belongings including medications;
 - (g) Furnishings, including how the agency will provide appropriate furniture for bedrooms and common spaces, as well as other furnishings appropriate to create a home-like setting; and
 - (h) Accessibility needs of individuals with disabilities as it relates to program operations and communications.

CERTIFICATION AND SERVICE STANDARDS FOR CLUBHOUSES

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0730 ((~~Outpatient services Consumer-run recovery support~~)) Clubhouses. (1) A clubhouse is a community-based program that provides rehabilitation services.

(2) The clubhouse may be peer-operated and must:

- (a) Be member-run with voluntary participation;
- (b) Be recovery-focused;
- (c) Focus on strengths, talents, and abilities of its members;
- (d) Have a clubhouse director who:
 - (i) Engages members and staff in all aspects of the clubhouse operations; and
 - (ii) Is ultimately responsible for the operation of the clubhouse.
- (e) Be comprised of structured activities including:
 - (i) Personal advocacy;
 - (ii) Help with securing entitlements;
 - (iii) Information on safe, appropriate, and affordable housing;
 - (iv) Community resource development;
 - (v) Connecting members with adult education opportunities in the community;
 - (vi) An active employment program that assists members to gain and maintain employment in full- or part-time competitive jobs. Employment related activities may include resume building, education on how employment will affect benefits, information on other employment services, and information regarding protections against employment discrimination; and
 - (vii) An array of social and recreational opportunities.
- (f) Use a work-ordered day to allow all members the opportunity to participate in all the work of the clubhouse including:
 - (i) Administration;
 - (ii) Research;
 - (iii) Intake and orientation;
 - (iv) Outreach;
 - (v) Training and evaluation of staff;
 - (vi) Public relations;
 - (vii) Advocacy; and
 - (viii) Evaluation of clubhouse effectiveness.
- (g) Provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community.

(3) "Work-ordered day" means a model used to organize clubhouse activities during the clubhouse's normal working hours.

(a) Members and staff are organized into one or more work units which provide meaningful and engaging work essential to running the clubhouse.

(b) 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.

(c) Members and staff work side-by-side as colleagues as evidenced by both the member and the staff signature on progress towards goals.

(d) Members participate as they feel ready and according to their individual interests.

(e) Work in the clubhouse is not intended to be job-specific training, and members are neither paid for clubhouse work nor provided artificial rewards.

(f) Work-ordered day does not include medication clinics, day treatment, or other therapy programs.

(4) Agencies certified for clubhouse services are not required to follow the requirements in WAC 246-341-0640 but instead must:

(a) Conduct a screening process that determines the appropriateness of the program based on the individual's needs and goals;

(b) Develop a support plan that indicates the goal(s) the individual plans to achieve through receiving the program and the progress made toward the goal(s);

(c) Maintain an individual's individual service record that contains documentation of the following:

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

(ii) Determination of the appropriateness of the program's service(s);

(iii) A copy of the support plan and progress toward meeting the individual's goal(s);

(iv) Any referral made to a more intensive level of care when appropriate;

(v) Consent to include the individual's family members, significant others, and other relevant treatment providers as necessary to provide support to the individual;

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

(vii) Any information or copies of documents shared by or with a behavioral health agency or credentialed behavioral health professional; and

(viii) The date the individual is no longer engaged in the program and any attempts to follow-up with the individual, if applicable.

(5) A clubhouse is not required to operate under the supervision of a mental health professional unless providing other certified services that require clinical supervision.

**CERTIFICATION AND SERVICE STANDARDS FOR BEHAVIORAL HEALTH OUTPATIENT
INTERVENTION, ASSESSMENT AND TREATMENT SERVICES**

NEW SECTION

WAC 246-341-0737 Behavioral health outpatient intervention, assessment and treatment services—Certification standards. (1) Agencies certified for intervention, assessment and treatment services provide individualized intervention, assessment and treatment for mental health, substance use, or co-occurring disorders. Intervention, assessment and treatment services under this certification include services such as:

- (a) Assessments;
- (b) Counseling and therapy;
- (c) Psychiatric medication management in accordance with the service standards in WAC 246-341-0739; and
- (d) Outpatient involuntary court-ordered services in accordance with subsection (4) of this section and the service standards for the service being provided.

(2) Agencies providing only assessment, psychiatric medication management, or alcohol and drug information school services are not required to meet the individual service plan or discharge requirements in WAC 246-341-0640.

(3) Agencies providing intervention, assessment and treatment services may choose to provide involuntary or court-ordered outpatient services to individuals for:

(a) Outpatient less restrictive alternative or conditional release under chapter 71.05 or 71.34 RCW in accordance with the service standards in WAC 246-341-0805;

(b) Counseling, assessment and education under chapter 46.61 RCW, including:

(i) Alcohol and drug information school in accordance with the service standards in WAC 246-341-0746;

(ii) Substance use disorder counseling in accordance with the service standards in WAC 246-341-0815; and

(iii) Driving under the influence (DUI) substance use assessment in accordance with the service standards in WAC 246-341-0820; or

(c) Deferred prosecution under RCW 10.05.150 in accordance with the service standards in WAC 246-341-0740.

(4) Agencies choosing to provide outpatient involuntary or court-ordered 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 in accordance with RCW 71.05.455 and chapter 182-538D WAC for individuals receiving court-ordered services under chapter 71.05 RCW, RCW 10.05.090 for individuals under deferred prosecution, or RCW 46.61.5056 for individuals receiving court-ordered treatment for driving under the influence (DUI). Additionally, agencies providing services to individuals under a court-

order for deferred prosecution under RCW 10.05.090 or treatment under RCW 46.61.5056 must:

(a) Report and recommend action for emergency noncompliance to the court or other appropriate jurisdiction(s) within three working days from obtaining information on:

(i) 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;

(ii) An individual's report of subsequent alcohol or drug related arrests; or

(iii) An individual's leaving the program against program advice or an individual discharged for rule violation;

(b) Report and recommend action for nonemergency, noncompliance to the court, or other appropriate jurisdiction(s) within 10 working days from the end of each reporting period, upon obtaining information on:

(i) An individual's unexcused absences or failure to report, including failure to attend mandatory self-help groups; or

(ii) An individual's failure to make acceptable progress in any part of the treatment plan;

(c) Transmit information on noncompliance or other significant changes as soon as possible, but no longer than 10 working days from the date of the noncompliance, when the court does not wish to receive monthly reports;

(d) Report compliance status of persons convicted under chapter 46.61 RCW to the department of licensing.

NEW SECTION

WAC 246-341-0739 Psychiatric medication management services—Service standards. Psychiatric medication management services are a variety of activities related to prescribing and administering psychiatric medication, including monitoring an individual for side effects and changes as needed.

(1) An agency providing psychiatric medication management 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) licensed under chapter 18.79 RCW; or

(iii) Physician assistant licensed under chapter 18.71A RCW 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 staff administering medications are appropriately credentialed;

(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) 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) If the individual gives permission for disposal, outdated medications are disposed of in accordance with the regulations of the pharmacy quality assurance commission and no outdated medications are retained.

(2) An agency providing psychiatric medication management 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 or psychiatric ARNP is accessible to the physician or ARNP for emergency consultation.

(3) An agency providing psychiatric medication management services must document the service in the individual service record.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0740 (~~(Outpatient services Level two intensive outpatient substance use disorder services.)~~) **Deferred prosecution under RCW 10.05.150—Service standards.** (~~((1) Level two intensive outpatient substance use disorder services provide a higher intensity, concentrated level of individualized treatment that may include individual and group counseling, education, and other activities.~~

~~(2))~~) An agency providing (~~(level two intensive outpatient)~~) treatment services for deferred prosecution under RCW 10.05.150 must:

~~((a))~~) (1) Ensure that services include a minimum of (~~(seventy-two))~~) 72 hours of treatment services within a maximum of (~~(twelve))~~) 12 weeks, which consist of the following during the first four weeks of treatment:

~~((i))~~) (a) At least three sessions each week, with each session occurring on separate days of the week;

~~((ii))~~) (b) Group sessions that must last at least one hour; and

~~((iii))~~) (c) Attendance at self-help groups in addition to the (~~(seventy-two))~~) 72 hours of treatment services.

~~((b))~~ (2) 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))~~ section;

~~((e))~~ (3) The agency must refer for ongoing treatment or support upon completion of intensive outpatient treatment, as necessary ~~(and~~

~~(d) The agency must report noncompliance with the court mandated treatment in accordance with WAC 246-341-0800).~~

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0746 ~~((Outpatient services—Substance use disorder information and assistance services))~~ **Alcohol and drug information school—Service standards.** 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. An agency providing alcohol and drug information school services must:

(1) Ensure courses are taught by a substance use disorder professional, a substance use disorder professional trainee, or a person who has received documented training in:

- (a) Effects of alcohol and other drugs;
- (b) Patterns of use;
- (c) Current laws and regulations pertaining to substance use violations, and consequences of the violations; and
- (d) Available resources and referral options for additional services that may be appropriate for the individual.

(2) Ensure the curriculum:

- (a) Provides no less than eight hours of instruction for each course;
- (b) Includes a post-test for each course after the course is completed;
- (c) Includes a certificate of completion; and
- (d) Covers the following topics:
 - (i) Information about the effects of alcohol and other drugs;
 - (ii) Patterns of use; and
 - (iii) Current laws, including Washington state specific laws and regulations, and consequences related to substance use violations.

(3) Ensure each student be advised that there is no assumption the student has a substance use disorder and that the course is not a therapy session;

(4) 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.

(5) An agency providing alcohol and drug information school services must include in the individual service record a copy of an assessment, if the individual was assessed, that indicates the individual does not have a substance use disorder.

~~((INVOLUNTARY AND COURT-ORDERED OUTPATIENT TREATMENT))~~

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0805 ((~~Involuntary and court-ordered Outpatient~~))
Less restrictive alternative (LRA) or conditional release support behavioral health services—Service standards. An agency serving individuals on a less restrictive alternative (LRA) or conditional release court order shall provide or monitor the provision of court-ordered services, including psychiatric, substance use disorder treatment, and medical components of community support services. An agency providing court-ordered LRA support and conditional release services shall:

(1) Have a written policy and procedure that allows for the referral of an individual to an involuntary treatment facility (~~(twenty-four)~~) 24 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 the individual is provided everything their rights afford them to and protect them from under chapter 71.05 or 71.34 RCW, as applicable.

(4) Include in the (~~(clinical)~~) individual service record a copy of the less restrictive alternative court order or conditional release and a copy of any subsequent modification.

(5) Ensure the individual service plan 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 medication services including an assessment of the need for and prescription of medications to treat mental health or substance use disorders, appropriate to the needs of the individual as follows:

(a) At least one time in the initial (~~(fourteen)~~) 14 days following release from inpatient treatment for an individual on a (~~(ninety-day or one hundred eighty-day)~~) 90-day or 180-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)~~) individual service record; and

(b) At least one time every (~~(thirty)~~) 30 days for the duration of the less restrictive alternative court order or conditional release, unless the individual's attending physician, physician assistant, or psychiatric ARNP determines another schedule is more appro-

appropriate and documents the new schedule and the reason(s) in the individual's ~~((clinical))~~ individual service record.

(7) Keep a record of the periodic evaluation of each committed individual for release from, or continuation of, an involuntary treatment order. Evaluations must occur at least every ~~((thirty))~~ 30 days for the duration of the commitments and include documentation of the evaluation 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 to expire without an extension request.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-0815 ~~((Involuntary and court ordered)) Substance use disorder counseling for RCW 46.61.5056—Service standards.~~ 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))~~ 60 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))~~ 30 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 recovery oriented, community-based self-help groups according to the individual service plan. Participation must be documented in the individual's ~~((clinical))~~ individual service record; and

(e) Individuals who complete intensive inpatient substance use disorder treatment services must attend, at a minimum, weekly outpatient counseling sessions for the remainder of their first ~~((sixty))~~ 60 days of treatment according to the individual service plan.

(2) The next ~~((one hundred twenty))~~ 120 days of treatment at a minimum shall include:

(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))~~ 30 minutes duration, every ~~((sixty))~~ 60 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))~~ 180 days of treatment.

(3) An individual who is assessed with insufficient evidence of a substance use disorder must be referred to alcohol/drug information school.

WAC 246-341-0820 (~~(Involuntary and court ordered)~~) **Driving under the influence (DUI) substance use disorder assessment services—Service standards.** 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) An agency certified to provide DUI assessment services:

(a) Must review, evaluate, and document information provided by the individual;

(b) May include in the assessment 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 246-341-0640 (1) (d); 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 face-to-face and document in the assessment whether the assessment was conducted in person or by synchronous video conferencing; 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.

((CRISIS OUTPATIENT MENTAL HEALTH SERVICES)) CERTIFICATION AND SERVICE STANDARDS FOR BEHAVIORAL HEALTH OUTPATIENT CRISIS OUTREACH, OBSERVATION AND INTERVENTION SERVICES

NEW SECTION

WAC 246-341-0901 Behavioral health outpatient crisis outreach, observation and intervention services—Certification standards.

(1) Agencies certified for outpatient behavioral health crisis outreach, observation and intervention services provide face-to-face and other means of services to stabilize an individual in crisis to prevent further deterioration, provide immediate treatment or intervention in the least restrictive environment at a location best suited to meet the needs of the individual which may be in the community, a behavioral health agency, or other setting.

(2) An agency certified for outpatient behavioral health crisis outreach, observation and intervention services does not need to meet the requirements in WAC 246-341-0640.

(3) An agency providing outpatient behavioral health crisis outreach, observation and intervention services for substance use disorder must ensure a professional appropriately credentialed to provide substance use disorder treatment is available or on staff 24 hours a day, seven days a week.

(4) An agency providing any outpatient behavioral health crisis outreach, observation and intervention services must:

(a) Provide crisis telephone support in accordance with WAC 246-341-0670;

(b) For mental health crisis, ensure face-to-face outreach services are provided by a mental health professional or department-credentialed staff person with documented training in crisis response;

(c) For an SUD crisis, ensure face-to-face outreach services are provided by a professional appropriately credentialed to provide substance use disorder treatment, or individual who has completed training that covers substance use disorders;

(d) Develop and implement policies and procedures for training staff to identify and assist individuals in crisis before assigning the staff member unsupervised duties;

(e) Resolve the crisis in the least restrictive manner possible;

(f) 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;

(g) Determine if an individual has a crisis plan and request a copy if available;

(h) Assure communication and coordination with the individual's mental health or substance use treatment provider, if indicated and appropriate;

(i) As appropriate, refer individuals to voluntary or involuntary treatment facilities for admission on a seven day a week, 24 hour a

day basis, including arrangements for contacting the designated crisis responder;

(j) Maintain a current list of local resources for referrals, legal, employment, education, interpreter and social and health services;

(k) Transport or arrange for transport of an individual in a safe and timely manner, when necessary;

(l) Be available 24 hours a day, seven days a week; and

(m) Include family members, significant others, and other relevant treatment providers, as necessary, to provide support to the individual in crisis.

(5) Documentation of a crisis service must include the following:

(a) A brief summary of each crisis service encounter, including the:

(i) Date;

(ii) Time, including time elapsed from initial contact to face-to-face contact, if applicable; and

(iii) Nature and duration of the encounter.

(b) The names of the participants;

(c) A disposition including any referrals for services and individualized follow-up plan;

(d) Whether the individual has a crisis plan and any request to obtain the crisis plan; and

(e) The name and credential, if applicable, of the staff person providing the service.

(6) An agency utilizing certified peer counselors to provide crisis outreach services must:

(a) Ensure services are provided by a person recognized by the health care authority as a peer counselor, as defined in WAC 246-341-0200;

(b) Ensure services provided by a peer counselor are within the scope of the peer counselor's training and credential;

(c) Ensure peer counselors receive annual training that is relevant to their unique working environment.

(7) When services are provided in a private home or nonpublic setting, the agency must:

(a) 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 personal residence or in a nonpublic location;

(b) 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 personal residence or other nonpublic location;

(c) Ensure that any staff member who engages in home visits is provided access, by their employer, to a wireless telephone or comparable device, for the purpose of emergency communication as described in RCW 71.05.710;

(d) Provide staff members who are sent to a personal residence or other nonpublic 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.

(8) If utilizing peer counselors for crisis outreach response:

(a) Ensure that a peer counselor responding to an initial crisis visit is accompanied by a mental health professional or individual ap-

appropriately credentialed to provide substance use disorder treatments as appropriate to the crisis;

(b) Develop and implement policies and procedures for determining when peer counselors may provide follow-up crisis outreach services without being accompanied by a mental health professional or individual appropriately credentialed to provide substance use disorder treatments as appropriate to the crisis.

CERTIFICATION STANDARDS FOR DESIGNATED CRISIS RESPONDER SERVICES

NEW SECTION

WAC 246-341-0912 Designated crisis responder (DCR) services—Certification standards. Designated crisis responder (DCR) services are services provided by a DCR to evaluate an individual in crisis and determine if involuntary services are required. An agency providing DCR services must do all of the following:

- (1) Ensure that services are provided by a DCR;
- (2) Ensure staff members utilize the protocols for DCRs required by RCW 71.05.214;
- (3) Document that services provided to the individual were in accordance with the requirements in chapter 71.05 or 71.34 RCW, as applicable; and
- (4) Meet the outpatient behavioral health crisis outreach, observation and intervention services certification standards in WAC 246-341-0901.

CERTIFICATION STANDARDS FOR OPIOID TREATMENT PROGRAMS (OTP)

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-1015 Opioid treatment programs (OTP)—(~~Clinical~~) Individual service record content and documentation requirements. An agency providing opioid treatment program services must maintain an individual's (~~clinical~~) individual service record. The (~~clinical~~) individual service 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 in progress notes of timely interventions used to therapeutically address the disclosure of illicit drug use, a positive drug test, or possible diversion of opioid medication, as evidenced by the absence of opioids or related metabolites in drug toxicology test results;
- (6) Documentation of all medical services including:
 - (a) Results of physical examination;
 - (b) Medical and family history;
 - (c) Nursing notes;
 - (d) Laboratory reports including results of regular toxicology screens, a problem list, and list of medications updated as clinically indicated; and
 - (e) Progress notes including documentation of all medications and dosages, if available.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-1020 Opioid treatment programs (OTP)—Medical director responsibility. An agency providing substance use disorder opioid treatment program services must ensure the program physician, or the medical practitioner under supervision of the medical director, performs and meets the following:

- (1) The program physician or medical practitioner under supervision of the medical director:
 - (a) Is responsible to verify an individual is currently addicted to an opioid drug and that the individual became addicted at least (~~twelve~~) 12 months before admission to treatment; or
 - (b) May waive the (~~twelve~~) 12 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~~) 24 months.
- (2) A documented physical evaluation must be completed on the individual before admission and before starting medications approved to treat opioid use disorder that includes the determination of opioid use disorder consistent with the current and applicable Diagnostic and Statistical Manual of Mental Disorders (DSM-5) criteria;
- (3) A documented review of 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 developing fetus;
 - (b) The risk of not initiating opioid treatment medication on the individual and the developing fetus;
 - (c) The potential need for the newborn baby to be treated in a hospital setting or in a specialized support environment designed to address and manage neonatal opioid or other drug withdrawal syndromes; and
 - (d) Referral options to address and manage neonatal opioid or other drug withdrawal syndromes.
- (6) Each individual voluntarily choosing to receive maintenance treatment must sign an informed consent to treatment;
- (7) Within (~~fourteen~~) 14 days of admission, a medical examination must be completed that includes:
- (a) Documentation of the results of serology and other tests, as determined by the medical practitioner; and
 - (b) A documented assessment for the appropriateness of Sunday and holiday 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~~) individual service 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~~) 12 consecutive months; and
- (12) An annual medical examination must be completed on each individual, either in person or via telehealth technologies, that includes the individual's overall physical condition and response to medication. The medical practitioner may use their professional and clinical judgment when determining the appropriateness of telehealth technologies for the annual medical exam and must document, in the patient's record, their decision to use telehealth technologies. The initial medical exam must be completed in person as required by 42 C.F.R. Part 8.12(f)(2).

~~((GENERAL REQUIREMENTS THAT APPLY TO RESIDENTIAL AND INPATIENT SERVICES))~~

CERTIFICATION STANDARDS FOR WITHDRAWAL MANAGEMENT (~~(, RESIDENTIAL SUBSTANCE USE DISORDER, AND MENTAL HEALTH INPATIENT SERVICES)~~)

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-1100 Withdrawal management ((services))—Certification standards. (1) Substance use disorder withdrawal management services are provided ((to a voluntary individual)) to assist in the process of withdrawal from psychoactive substances in a safe and effective manner that includes medical management or medical monitoring. Substance use disorder withdrawal management services under this certification include:

(a) Adult withdrawal management; and

(b) Youth withdrawal management.

~~((1))~~ (2) An agency certified for withdrawal management services must:

(a) Ensure the individual receives a substance use disorder screening before admission;

(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; and

(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.

~~((2))~~ (3) Ensure that each staff member providing withdrawal management services to an individual, with the exception of substance use disorder professionals, substance use disorder professional trainees, physicians, physician assistants, advanced registered nurse practitioners, or person with a co-occurring disorder specialist enhancement, completes a minimum of ((forty)) 40 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.

(4) An agency certified for withdrawal management services must meet the certification standards for residential and inpatient behavioral health services in WAC 246-341-1104 and the individual service requirements for inpatient and residential substance use disorder services in WAC 246-341-1108.

CERTIFICATION AND SERVICE STANDARDS FOR BEHAVIORAL HEALTH RESIDENTIAL OR INPATIENT INTERVENTION, ASSESSMENT AND TREATMENT SERVICES

NEW SECTION

WAC 246-341-1105 Behavioral health residential and inpatient intervention, assessment and treatment services—Certification standards.

(1) Agencies certified for behavioral health residential and inpatient services provide behavioral health intervention, assessment and treatment services in a residential treatment facility or hospital. Residential and inpatient services under this certification include:

- (a) In accordance with the service standards in WAC 246-341-1108:
 - (i) Adult residential and inpatient substance use disorder treatment; and
 - (ii) Youth residential and inpatient substance use disorder treatment;

- (b) In accordance with the service standards in WAC 246-341-1118:
 - (i) Adult residential and inpatient mental health treatment; and
 - (ii) Youth residential and inpatient mental health treatment.

(2) Agencies certified for behavioral health residential and inpatient services must:

- (a) Be a facility licensed by the department as:
 - (i) A hospital licensed under chapter 70.41 RCW;
 - (ii) A private psychiatric hospital licensed under chapter 71.12 RCW;
 - (iii) A private alcohol and substance use disorder hospital licensed under chapter 71.12 RCW; or
 - (iv) A residential treatment facility licensed under chapter 71.12 RCW;

(b) Ensure access to necessary medical treatment, including emergency life-sustaining treatment and medication;

(c) Review the individual's crisis or recovery plan, if applicable and available;

- (d) Determine the individual's risk of harm to self, others, or property;
- (e) Coordinate with the individual's current treatment provider, if applicable, to assure continuity of care during admission and upon discharge;
- (f) Develop and provide to the individual a discharge summary that must include:
 - (i) A continuing care recommendation; and
 - (ii) Scheduled follow-up appointments, including the time and date of the appointment(s), when possible.
- (3) If providing services to adults and minors, an agency must ensure that a minor who is at least age 13 but not yet age 18 is served with adults only if the minor's individual service record contains:
 - (a) Documentation that justifies such placement;
 - (b) A professional judgment that placement in an inpatient facility that serves adults will not harm the minor; and
 - (c) Ensure the following for individuals who share a room:
 - (i) An individual 15 years of age or younger must not room with an individual 18 years of age or older;
 - (ii) Anyone under 13 years of age must be evaluated for clinical appropriateness before being placed in a room with an individual 13 to 16 years of age; and
 - (iii) An individual 16 or 17 years of age must be evaluated for clinical appropriateness before being placed in a room with an individual 18 years of age or older.
- (4) An agency providing residential or inpatient mental health or substance use disorder services to youth must follow these additional requirements:
 - (a) Allow communication between the youth and the youth's parent, or if applicable, a legal guardian, and facilitate the communication when clinically appropriate.
 - (b) Notify the parent or legal guardian within two hours of any significant decrease in the behavioral or physical health status of the youth and document all notification and attempts of notification in the individual service record.
 - (c) Discharge the youth to the care of the youth's parent, or if applicable, legal guardian. For an unplanned discharge and when the parent or legal guardian is not available, the agency must contact the state child protective services.
 - (d) Ensure a staff member who demonstrates knowledge of adolescent development and substance use disorders is available at the agency or available by phone.
 - (e) Ensure staff members are trained in safe and therapeutic techniques for dealing with a youth's behavior and emotional crisis, including:
 - (i) Verbal de-escalation;
 - (ii) Crisis intervention;
 - (iii) Emotional regulation;
 - (iv) Suicide assessment and intervention;
 - (v) Conflict management and problem solving skills;
 - (vi) Management of assaultive behavior;
 - (vii) Proper use of therapeutic physical intervention techniques;
- and
- (viii) Emergency procedures.
- (f) Unless otherwise advised by the treatment provider:

- (i) Provide group meetings to promote social and emotional growth.
- (ii) Provide leisure and other therapy or related activities.
- (iii) Provide seven or more hours of structured recreation each week, that is led or supervised by staff members.
- (iv) For each youth who is unable to attend school for an estimated period of four weeks or more during the academic school year, the agency must work with the school district in which the youth is enrolled or the youth's educational provider to assure the academic needs of the youth are met.
- (g) Conduct random and regular room checks when an individual is in their room, and more often when clinically indicated.
- (h) Ensure each individual's individual service record:
 - (i) Contains any consent or release forms signed by the youth and their parent or legal guardian;
 - (ii) Contains the parent's or other referring person's agreement to participate in the treatment process, as appropriate, and if possible; and
 - (iii) Documents any problems identified in specific youth assessment, including any referrals to school and community support services, on the individual service plan.
- (5) An agency that provides services to youth may continue to provide services to a youth who turns 18 years old while admitted, so long as it is documented that it is in the best interest of the individual and the agency meets the requirements in subsection (4)(h) of this section.
- (6) An agency certified for behavioral health residential and inpatient intervention, assessment and treatment services may choose to provide services to individuals on a less restrictive alternative order in accordance with the requirements in WAC 246-341-0805.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-1108 Residential and inpatient substance use disorder treatment services—((General)) Service standards. Residential substance use disorder treatment services provide substance use disorder treatment for an individual in a facility with ~~((twenty-four))~~ 24 hours a day supervision.

- ~~(1) ((Residential treatment services include:~~
 - ~~(a) Intensive inpatient services;~~
 - ~~(b) Low intensity (recovery house) residential treatment services; and~~
 - ~~(c) Long-term residential treatment services.~~
- ~~(2))~~ An agency ((certified to provide)) providing residential and inpatient substance use disorder treatment services must:
 - (a) Provide education to each individual admitted to the treatment facility on:
 - (i) Substance use disorders;
 - (ii) Relapse prevention;
 - (iii) Bloodborne pathogens;
 - (iv) Tuberculosis (TB);
 - (v) Emotional, physical, and sexual abuse; and

(vi) Nicotine use disorder((-));

(b) 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; and

(c) Develop and implement written procedures for:

(i) Urinalysis and drug testing, including laboratory testing; and

(ii) How agency staff members respond to medical and psychiatric emergencies.

~~((3))~~ (2) An agency that provides services to a pregnant woman must:

(a) Develop and implement a written procedure to address specific issues regarding the woman's pregnancy and prenatal care needs;

(b) Provide referral information to applicable resources; and

(c) Provide education on the impact of substance use during pregnancy, risks to the developing fetus, and the importance of informing medical practitioners of chemical use during pregnancy.

~~((4))~~ (3) 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.

~~((5) An agency that provides substance use disorder residential services to youth must:~~

~~(a) Ensure staff members are trained in safe and therapeutic techniques for dealing with a youth's behavior and emotional crisis, including:~~

~~(i) Verbal deescalation;~~

~~(ii) Crisis intervention;~~

~~(iii) Anger management;~~

~~(vi) Suicide assessment and intervention;~~

~~(v) Conflict management and problem solving skills;~~

~~(vii) Management of assaultive behavior;~~

~~(viii) Proper use of therapeutic physical intervention techniques; and~~

~~(ix) Emergency procedures.~~

~~(b) Provide group meetings to promote personal growth.~~

~~(c) Provide leisure, and other therapy or related activities.~~

~~(d) Provide seven or more hours of structured recreation each week, that is led or supervised by staff members.~~

~~(e) 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:~~

~~(i) Document the individual's most recent academic placement and achievement level; and~~

~~(ii) 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.~~

~~(f) Conduct random and regular room checks when an individual is in their room, and more often when clinically indicated.~~

~~(g) Ensure each individual's clinical record:~~

~~(i) Contains any consent or release forms signed by the youth and their parent or legal guardian;~~

~~(ii) Contains the parent's or other referring person's agreement to participate in the treatment process, as appropriate and if possible; and~~

~~(iii) Documents any problems identified in specific youth assessment, including any referrals to school and community support serv-~~

ices, on the individual service plan.) (4) Inform individuals of their treatment options so they can make individualized choices for their treatment. This includes, as applicable, the initiation, continuation, or discontinuation of medications for substance use disorders.

(5) For individuals choosing to initiate or continue medications for their substance use disorder, make available on-site or facilitate off-site access to continue or initiate Federal Drug Administration (FDA)-approved medication for any substance use disorder, when clinically appropriate, as determined by a medical practitioner.

(6) Provide continuity of care that allows individuals to receive timely and appropriate follow up services upon discharge and, if applicable, allows the individual to continue medications with no missed doses.

(7) Document in the individual service record:

(a) The individual being informed of their treatment options, including the use of medications for substance use disorder;

(b) The continuation or initiation of FDA-approved medication for substance use disorder treatment that has been provided on-site or facilitated off-site, if applicable;

(c) Referrals made to behavioral health providers, including documentation that a discharge summary was provided to the receiving behavioral health provider as allowed under 42 C.F.R. Part 2; and

(d) Contact or attempts to follow up with the individual post-discharge, including the date of correspondence.

(8) An agency may not deny admission based solely on an individual taking FDA-approved medications, under the supervision of a medical provider, for their substance use disorder or require titration of dosages in order to be admitted or remain in the program.

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-1118 Residential and inpatient mental health ((inpatient)) services—((General)) Service standards. (1) ((Mental health inpatient services include the following types of behavioral health services certified by the department:

(a) Evaluation and treatment services;

(b) Intensive behavioral health treatment services;

(c) Child long-term inpatient program (CLIP);

(d) Crisis stabilization units;

(e) Triage services; and

(f) Competency evaluation and restoration services.

(2)) An agency providing residential and inpatient mental health ((inpatient)) services must develop and implement an individualized annual training plan for agency staff members, to include at least:

(a) Least restrictive alternative options available in the community and how to access them;

(b) Methods of ((individual care)) providing individualized treatment; and

(c) ((Deescalation)) De-escalation training and management of assaultive and self-destructive behaviors, including proper and safe use of seclusion and restraint procedures.

~~((3))~~ (2) If contract staff are providing direct services, the facility must ensure compliance with the training requirements outlined in subsection ~~((2))~~ (1) of this section.

~~((4))~~ (3) A behavioral health agency providing mental health inpatient services must:

(a) Document that each individual has received evaluations to determine the nature of the disorder and the treatment necessary, including:

(i) A health assessment of the individual's physical condition to determine if the individual needs to be transferred to an appropriate hospital for treatment;

(ii) Examination and medical evaluation within ~~((twenty-four))~~ 24 hours of admission by a licensed physician, advanced registered nurse practitioner, or physician assistant;

(iii) Consideration of less restrictive alternative treatment at the time of admission; and

(iv) The admission diagnosis and what information the determination was based upon.

~~(b) ((Ensure 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.~~

~~(e))~~ Ensure examination and evaluation of a minor by a children's mental health specialist occurs within ~~((twenty-four))~~ 24 hours of admission.

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

WAC 246-341-1124 ((Mental health)) Residential and inpatient mental health 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))~~ 24-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))~~ 18, 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 anti-

psychotic 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~~) 24 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 anti-psychotic medications are not available or are unlikely to be successful; and

(iii) In the opinion of the psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority, the individual's condition constitutes an emergency requiring that treatment be instituted before obtaining an additional concurring opinion by a second psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority.

(b) There is an additional concurring opinion by a second psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority, for treatment up to (~~thirty~~) 30 days.

(c) For continued treatment beyond (~~thirty~~) 30 days through the hearing on any (~~one hundred eighty-day~~) 180-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~~) 60 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~~) 180-day petitions for antipsychotic medications filed under the authority of RCW 71.05.217.

(4) Individuals committed for (~~one hundred eighty~~) 180 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.

CERTIFICATION AND SERVICE STANDARDS FOR INVOLUNTARY BEHAVIORAL HEALTH RESIDENTIAL OR INPATIENT SERVICES

NEW SECTION

WAC 246-341-1131 Involuntary behavioral health residential and inpatient services—Certification standards. (1) Agencies certified for involuntary behavioral health residential and inpatient services provide behavioral health intervention, assessment and treatment services in a residential treatment facility or hospitals to individuals subject to a civil commitment or court-order under chapter 71.05 or 71.34 RCW or deemed not guilty by reason of insanity (NGRI) under chapter 10.77 RCW. Involuntary residential and inpatient services under this certification include the following services:

- (a) In accordance with the service standards in WAC 246-341-1133:
 - (i) Adult involuntary evaluation and treatment; and
 - (ii) Youth involuntary evaluation and treatment;
- (b) In accordance with the service standards in WAC 246-341-1135:
 - (i) Adult secure withdrawal management; and
 - (ii) Youth secure withdrawal management;
- (c) NGRI behavioral health treatment.

(2) An agency providing involuntary behavioral health services must:

(a) Follow the applicable statutory requirements in chapter 10.77, 71.05, or 71.34 RCW;

(b) 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, in a method appropriate to the individual;

(iii) A space to separate persons who are violent or may become violent from others when necessary to maintain safety of the individual and 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;

(c) Provide services, including admissions, seven days a week, 24 hours a day;

(d) Ensure that a mental health professional, substance use disorder professional, if appropriate, and physician, physician assistant, or psychiatric advanced registered nurse practitioner (ARNP) are

available 24 hours a day, seven days a week for consultation and communication with the staff that provide direct care of individuals.

(3) An agency providing services under chapter 71.05 or 71.34 RCW must:

(a) Ensure at least daily contact between each involuntary individual and a mental health professional, substance use disorder professional, or person with a co-occurring disorder specialist enhancement as appropriate, for the purpose of evaluation as to:

(i) The need for further treatment;

(ii) Whether there is a change in involuntary status; or

(iii) Possible discharge;

(b) For an individual who has been delivered to the facility by a peace officer for evaluation, the individual service record must contain:

(i) A statement of the circumstances under which the individual was brought to the unit;

(ii) The admission date and time;

(iii) Determination of whether to refer to a designated crisis responder (DCR) to initiate civil commitment proceedings;

(iv) If evaluated by a DCR, documentation that the evaluation was performed within the required time period, the results of the evaluation, and the disposition of the person;

(c) Upon discharge of the individual the agency shall provide notification to the DCR office responsible for the initial commitment, which may be a federally recognized Indian tribe or other Indian health care provider if the DCR is appointed by the health care authority, and the DCR office that serves the county in which the individual is expected to reside.

(4) Agencies certified for involuntary behavioral health residential and inpatient services must also follow the certification standards for residential and inpatient behavioral health services in WAC 246-341-1105.

(5) An agency certified for involuntary behavioral health residential and inpatient services may choose to provide services to individual on a less restrictive alternative order in accordance with the requirements in WAC 246-341-0805.

NEW SECTION

WAC 246-341-1133 Evaluation and treatment services—Service standards. (1) Evaluation and treatment services are provided for individuals who are held for 120-hour detention or on 14-day, 90-day, or 180-day civil commitment orders according to chapters 71.05 and 71.34 RCW. An agency providing evaluation and treatment services may choose to serve individuals who are held for 120-hour detention, or on short-term commitment orders (14-day), long-term commitment orders (90-day and 180-day), or all three. Agencies providing evaluation and treatment services may also provide services for individuals who are not detained or committed.

(2) An agency providing evaluation and treatment services for youth must be a contracted child long-term inpatient treatment facility (CLIP), except as specified in subsection (4) of this section. The CLIP facility must develop a written plan for assuring that services

provided are appropriate to the developmental needs of children, including all of the following:

(a) If there is not a child psychiatrist on the staff, there must be a child psychiatrist available for consultation.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) There must be an occupational therapist licensed under chapter 18.59 RCW available, who has experience in working with psychiatrically impaired children, responsible for occupational therapy functions and the integration of these functions into treatment.

(g) There must be a registered recreational therapist under chapter 18.230 RCW 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.

(h) Disciplinary policies and practices must be stated in writing and all of the following must be true:

(i) 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.

(ii) 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.

(iii) Disciplinary measures must be documented in the individual service record.

(i) 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.

(j) 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 department phone numbers must be available to personnel and staff.

(k) When suspected or alleged abuse is reported, the individual service record must reflect the fact that an oral or written report has been made to the child protective services of the department of children, youth, and families, or to a law enforcement agency within the timelines identified in chapter 26.44 RCW. 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 individual service record.

(3) Agencies that provide child long-term inpatient treatment services are exempt from the requirement in WAC 246-341-1131 to admit individuals needing treatment seven days a week, 24 hours a day.

(4) An agency providing short-term involuntary services to youth, which are not contracted as a CLIP facility, may provide treatment for a child on a 180-day inpatient involuntary commitment order only until the child is discharged from the order to the community, or until a bed is available for that child in a CLIP facility.

(5) An agency providing evaluation and treatment services must follow the service standards for inpatient and residential mental health services in WAC 246-341-1105.

NEW SECTION

WAC 246-341-1135 Secure withdrawal management and stabilization services—Service standards. Secure withdrawal management and stabilization services are provided to an involuntary 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 chapters 71.05 and 71.34 RCW.

(1) An agency providing secure withdrawal management and stabilization services must develop and implement policies and procedures to assure that a substance use disorder professional and licensed physician, physician assistant, or advanced registered nurse practitioner are available 24 hours a day, seven days a week for consultation and communication with the staff that provide direct care to individuals.

(2) An agency providing secure withdrawal management and stabilization services must document that each individual has received necessary screenings, assessments, examinations, or 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; and

(b) An examination and evaluation in accordance with RCW 71.05.210 within 24 hours of admission to the facility.

(3) For individuals admitted to the secure withdrawal management and stabilization facility, the individual service record must contain:

(a) A statement of the circumstances under which the individual 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 DCR 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 DCR within the time period required in RCW 71.05.050, the results of the evaluation, and the disposition; and

(f) Review of the admission diagnosis and what information the determination was based upon.

(4) 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 substance use disorder professionals or persons with a co-occurring disorder specialist enhancement, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual.

(5) An agency providing secure withdrawal management must meet the certification standards for withdrawal management in WAC 246-341-1100.

CERTIFICATION STANDARDS FOR INTENSIVE BEHAVIORAL HEALTH TREATMENT

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-1137 (~~(Behavioral health inpatient services)~~) Intensive behavioral health treatment services—Certification standards.

(1) Intensive behavioral health treatment services are intended to assist individuals in transitioning to lower levels of care, including individuals on a less restrictive alternative order. These services are provided for individuals with behavioral health conditions whose impairment or behaviors do not meet or no longer meet criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based settings due to one or more of the following:

(a) Self-endangering behaviors that are frequent or difficult to manage;

(b) Intrusive behaviors that put residents or staff at risk;

(c) Complex medication needs, which include psychotropic medications;

(d) A history or likelihood of unsuccessful placements in other community facilities or settings such as:

(i) Assisted living facilities licensed under chapters 18.20 RCW and 388-78A WAC;

(ii) Adult family homes licensed under chapters 70.128 RCW and 388-76 WAC;

(iii) Permanent supportive housing provided in accordance with chapter 388-106 WAC;

(iv) Supported living certified under chapter 388-101 WAC; or

(v) Residential treatment facilities licensed under chapters 71.12 RCW and 246-337 WAC providing a lower level of services.

(e) A history of frequent or protracted mental health hospitalizations; or

(f) A history of offenses against a person or felony offenses that cause physical damage to property.

(2) An agency providing intensive behavioral health treatment services must ensure services are provided:

(a) In a residential treatment facility licensed under chapters 71.12 RCW and 246-337 WAC;

(b) By a multidisciplinary team including clinicians, community supports, and those responsible for discharge planning; and

(c) With ~~((twenty-four))~~ 24 hour observation of individuals by at least two staff who are awake and on duty.

(3) The agency must meet the behavioral health residential and inpatient intervention, assessment and treatment services certification standards in WAC 246-341-1105 and the residential and inpatient mental health service standards in WAC 246-341-1118.

(4) The agency may:

(a) Only admit individuals at least ~~((eighteen))~~ 18 years of age whose primary care need is treatment for a mental health disorder that does not include a diagnosis of dementia or an organic brain disorder, but may include individuals who have a secondary diagnosis of intellectual or developmental disabilities;

(b) Only admit individuals who are capable of performing activities of daily living without direct assistance from agency staff; and

(c) Not admit individuals with a diagnosis of dementia or an organic brain disorder who can more appropriately be served in an enhanced services facility licensed under chapters 70.97 RCW and 388-107 WAC or other long-term care facility as defined in RCW 70.129.010.

~~((4))~~ (5) The agency must follow WAC 246-341-0805 regarding less restrictive alternative services.

~~((5))~~ (6) In addition to the applicable training requirements in this chapter, the agency must train all direct care staff on how to provide services and appropriate care to individuals with intellectual or developmental disabilities as described in Title 71A RCW, including:

(a) An overview of intellectual and developmental disabilities including how to differentiate intellectual or developmental disabilities from mental illness;

(b) Effective communication including methods of verbal and non-verbal communication when supporting individuals with intellectual or developmental disabilities; and

(c) How to identify behaviors in individuals that constitutes "normal stress" and behaviors that constitute a behavioral health crisis.

~~((6))~~ (7) The agency must develop and implement policies and procedures that explain how the agency will have sufficient numbers of appropriately trained, qualified, or credentialed staff available to safely provide all of the following services in accordance with an individual's care plan and needs:

(a) Planned activities for psychosocial rehabilitation services, including:

(i) Skills training in activities of daily living; skills training may include teaching and prompting or cueing individuals to perform activities, but does not include directly assisting individuals in performing the activities;

(ii) Social interaction;

(iii) Behavioral management, including self-management and understanding of recovery;

(iv) Impulse control;

- (v) Training and assistance for self-management of medications;
- and
- (vi) Community integration skills.
- (b) Service coordination provided by a mental health professional;
- (c) Psychiatric services, including:
- (i) Psychiatric nursing, on-site, (~~(twenty-four)~~) 24 hours per day, seven days per week;
 - (ii) Timely access to a psychiatrist, psychiatric advanced registered nurse practitioner, or physician's assistant who is licensed under Title 18 RCW operating within their scope of practice who by law can prescribe drugs in Washington state; and
 - (iii) A mental health professional on site at least eight hours per day and accessible (~~(twenty-four)~~) 24 hours per day, seven days per week.
- (d) Access to intellectual and developmental disability services provided by a disability mental health specialist as described in WAC 182-538D-0200 or a person credentialed to provide applied behavioral analysis; and
- (e) Peer support services provided by certified peer counselors.
- (~~(7)~~) (8) The agency must provide access to or referral to substance use disorder services, and other specialized services, as needed.
- (~~(8)~~) (9) The agency must provide a system or systems within the building that give staff awareness of the movements of individuals within the facility. If a door control system is used, it shall not prevent a resident from leaving the licensed space on their own accord, except temporary delays as allowed by (a) of this subsection. Such systems include:
- (a) Limited egress systems consistent with state building code, such as delayed egress;
 - (b) Appropriate staffing levels to address safety and security;
- and
- (c) Policies and procedures that:
- (i) Are consistent with the assessment of the individual's care needs and plan; and
 - (ii) Do not limit the rights of a voluntary individual.
- (~~(9)~~) (10) The agency must have a memorandum of understanding with the local crisis system, including the closest agency providing evaluation and treatment services and designated crisis responders to ensure timely response to and assessment of individuals who need a higher level of care.
- (~~(10)~~) (11) The agency must develop and implement policies and procedures regarding discharge and transfer that:
- (a) Allows each individual to stay in the facility and not discharge the individual to another facility type or other level of care unless another placement has been secured, and:
 - (i) The individual completed their care objectives and no longer needs this level of care;
 - (ii) The individual has medical care needs that the agency cannot provide or needs direct assistance with activities of daily living;
 - (iii) The individual needs a higher level of behavioral health care, such as evaluation and treatment services, due to a change in behavioral health status or because the individual's conditional release or less restrictive alternative order is revoked; or
 - (iv) The individual is convicted of any gross misdemeanor or felony while being a resident in the facility where the conviction was

based on conduct that caused significant harm to another individual residing in the agency or staff member and there is a likelihood the individual continues to endanger the safety and health of residents or staff. For the purposes of this subsection, conviction includes all instances in which plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence have been deferred or suspended.

(b) Allows individuals who are discharged in accordance with (a)(ii) or (iii) of this subsection to be accepted back into the facility if and when it is medically, clinically, legally, and contractually appropriate;

(c) Allows each individual to stay in the facility and not transfer to another agency providing intensive behavioral health treatment services unless the individual requests to receive services in a different agency certified to provide intensive behavioral health treatment services;

(d) Follows all transfer and discharge documentation requirements in WAC 246-341-0640 and also documents the specific time and date of discharge or transfer. Additionally, the agency must give the following information to the individual, the individual's representative, and family or guardian, as appropriate, before discharge or transfer:

(i) The name, address, and telephone number of the applicable ombuds;

(ii) For individuals with disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals; and

(iii) The mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals.

(e) Includes transportation coordination that informs all parties involved in the coordination of care.

~~((11))~~ (12) The agency must protect and promote the rights of each individual and assist the individual to exercise their rights as an individual, as a citizen or resident of the United States and the state of Washington. To do this, the agency must:

(a) Train staff on resident rights and how to assist individuals in exercising their rights;

(b) Protect each individual's right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the agency;

(c) Post names, addresses, and telephone numbers of the state review and certification agency, the state licensure office, the relevant ombuds programs, and the protection and advocacy systems;

(d) Provide reasonable access to an individual by the individual's representative or an entity or individual that provides health, social, legal, or other services to the individual, subject to the individual's right to deny or withdraw consent at any time;

(e) Allow representatives of appropriate ombuds to examine a resident's ~~(clinical)~~ individual service records with the permission of the individual or the individual's legal representative, and consistent with state and federal law;

(f) Not require or request individuals to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of individual's rights;

(g) Fully disclose to individuals the agency's policy on accepting medicaid as a payment source; and

(h) Inform the individual both orally and in writing in a language that the individual understands of their applicable rights in

accordance with this chapter. The notification must be made upon admission and the agency must document the information was provided.

~~((12))~~ (13) In addition to all other applicable rights, an individual receiving certified intensive behavioral health treatment services has the right to:

(a) Be free of interference, coercion, discrimination, and reprisal from the agency in exercising their rights;

(b) Choose a representative who may exercise the individual's rights to the extent provided by law;

(c) Manage their own financial affairs;

(d) Personal privacy and confidentiality, including the following considerations:

(i) Personal privacy applies to accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups.

(ii) The individual may approve or refuse the release of personal and ~~(clinical)~~ individual service records to an individual outside the agency unless otherwise provided by law.

(iii) Privacy in communications, including the right to:

(A) Send and promptly receive mail that is unopened;

(B) Have access to stationery, postage, and writing implements; and

(C) Have reasonable access to the use of a telephone where calls can be made without being overheard.

(e) Prompt resolution of voiced grievances including those with respect to treatment that has been furnished as well as that which has not been furnished and the behavior of other residents;

(f) File a report with the department for any reason;

(g) Examine the results of the most recent review or inspection of the agency conducted by federal or state reviewers or inspectors and plans of correction in effect with respect to the agency;

(h) Receive information from client advocates, and be afforded the opportunity to contact these advocates;

(i) Access the following without interference:

(i) Any representative of the state;

(ii) The individual's medical provider;

(iii) Ombuds;

(iv) The agencies responsible for the protection and advocacy system for individuals with disabilities, developmental disabilities, and individuals with mental illness created under federal law; and

(v) Subject to reasonable restrictions to protect the rights of others and to the individual's right to deny or withdraw consent at any time, immediate family or other relatives of the individual and others who are visiting with the consent of the resident.

(j) Retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents;

(k) Secure storage, upon request, for small items of personal property;

(l) Be notified regarding transfer or discharge;

(m) Be free from restraint and involuntary seclusion;

(n) Be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion;

(o) Choose activities, schedules, and health care consistent with the individual's interests, assessments, and plans of care;

- (p) Interact with members of the community both inside and outside the agency;
 - (q) Make choices about aspects of their life in the agency that are significant to the individual;
 - (r) Unless adjudged incompetent or otherwise found to be legally incapacitated, participate in planning care and treatment or changes in care and treatment;
 - (s) Unless adjudged incompetent or otherwise found to be legally incapacitated, to direct their own service plan and changes in the service plan, and to refuse any particular service so long as such refusal is documented in the record of the individual;
 - (t) Participate in social, religious, and community activities that do not interfere with the rights of other individuals in the agency;
 - (u) Reside and receive services in the agency with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other individuals would be endangered; and
 - (v) Organize and participate in participant groups.
- ((13)) (14) The individual and their representative have the right to:
- (a) Access all records pertaining to the individual including ~~((clinical))~~ individual service records according to requirements in WAC 246-341-0650; and
 - (b) Be notified, along with interested family members, when there is:
 - (i) An accident involving the individual which requires or has the potential for requiring medical intervention;
 - (ii) A significant change in the individual's physical, mental, or psychosocial status; and
 - (iii) A change in room or roommate assignment.

CERTIFICATION STANDARDS FOR CRISIS STABILIZATION UNIT AND TRIAGE SERVICES

AMENDATORY SECTION (Amending WSR 21-12-042, filed 5/25/21, effective 7/1/21)

WAC 246-341-1140 ~~((Mental health inpatient services))~~ **Crisis stabilization unit and triage—Certification standards.** An agency certified to provide crisis stabilization unit or triage services must meet all of the following criteria:

- (1) A triage facility must be licensed as a residential treatment facility under chapter 71.12 RCW.
- (2) If a crisis stabilization unit or triage facility 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) Ensure that a mental health professional is on-site at least eight hours per day, seven days a week, and accessible (~~(twenty-four)~~) 24 hours per day, seven days per week.

(4) Ensure a mental health professional assesses an individual within three hours of the individual's arrival at the facility.

(5) For persons admitted to the crisis stabilization unit or triage facility on a voluntary basis, the (~~(clinical)~~) individual service record must meet the (~~(clinical)~~) individual service record requirements in WAC 246-341-0640.

(6) An agency certified to provide crisis stabilization unit or triage services must meet the service standards for residential and inpatient mental health services in WAC 246-341-1105 and the applicable standards in WAC 246-341-1131 if providing involuntary crisis stabilization unit or triage services.

CERTIFICATION AND SERVICE STANDARDS FOR COMPETENCY RESTORATION SERVICES

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

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)~~) 246-341-1105 and applicable requirements in WAC 246-341-1131, 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)) 246-341-1133 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)) individual service 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))~~ 24 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))~~ 90 days.

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

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))~~ individual service 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.

AMENDATORY SECTION (Amending WSR 19-09-062, filed 4/16/19, effective 5/17/19)

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)~~) individual service record.

(c) Ensure staff members notify and receive authorization by a physician, physician assistant (PA) or advanced registered nurse prac-

titioner (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 15 minutes and the observation is recorded in the individual's ~~((clinical))~~ individual service record.

(f) If the use of seclusion or restraint exceeds ~~((twenty-four))~~ 24 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))~~ 24 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))~~ individual service record.

CERTIFICATION STANDARDS FOR PROBLEM GAMBLING AND GAMBLING DISORDER SERVICES

NEW SECTION

WAC 246-341-1200 Problem gambling and gambling disorder services
—**Certification standards.** (1) Each agency licensed by the department to provide problem gambling and gambling disorder services that includes diagnostic screening and assessment, and individual, group, couples, and family counseling and case management must ensure the following requirements are met:

(a) Meet the behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0300 through 246-341-0650;

(b) Be a problem gambling certified agency with the department;

(c) Maintain a list of resources, including self-help groups, and referral options that can be used by staff to refer an individual to appropriate services; and

(d) Maintain a written procedure for the response to medical and psychiatric emergencies.

(2) An agency certified to provide problem gambling and gambling disorder services must ensure:

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

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

(ii) An individual credentialed by the department under chapter 18.19, 18.83, or 18.225 RCW, under the supervision of a certified gam-

bling counselor, and in training to become a certified gambling counselor.

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

(i) At least 1,500 hours of professionally supervised postlicensure, 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 requirements of certification training:

(A) The Washington state gambling counselor certification committee is an independent body comprised of certified gambling counselors and advisory members as deemed appropriate by the committee and is responsible for determining the training and continuing education requirements for gambling counselor certification and gambling counselor supervision and any additional requirements not otherwise specified here;

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

(C) The health care authority problem gambling program.

(c) An individual who meets subsection (3) of this section must complete training within two years of acceptance to the certification program to become a certified gambling counselor.

(d) All staff members in training to become a certified 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 requirements on problem gambling and gambling disorder 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 health care authority problem gambling program.

(3) An agency that provides only problem gambling-related services, including diagnostic screening, brief intervention, case management, referral to certified problem gambling agencies, and educational sessions, but does not provide problem gambling assessment and treatment, is not required to be certified for problem gambling services.

CERTIFICATION STANDARDS FOR APPLIED BEHAVIOR ANALYSIS MENTAL HEALTH SERVICES

NEW SECTION

WAC 246-341-1300 Applied behavior analysis mental health services—Certification standards. Applied behavior analysis (ABA) services assist individuals and their families using the practice of behavior analysis as defined in RCW 18.380.010.

(1) An agency providing ABA services must:

(a) Conduct an assessment that determines functional relations between behavior and environmental factors;

(b) Develop an ABA treatment plan;

(c) Maintain an individual's individual service record that contains documentation of the following:

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

(ii) An assessment;

(iii) A copy of the ABA treatment plan, including progress notes;

(iv) Any referral made to a more intensive level of care when appropriate;

(v) Consent to include the individual's family members, significant others, and other relevant treatment providers as necessary to provide support to the individual;

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

(vii) Name(s) of participant(s), including the name of the individual who provided the service;

(viii) Any information or copies of documents shared by or with a behavioral health agency or credentialed behavioral health professional; and

(ix) Discharge information as follows:

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

or
(B) Discharge information for an individual who did not leave without notice, completed within seven working days of the individual's discharge, including the date of discharge and continuing care plan.

(2) ABA agencies that bill Medicaid must also follow the requirements administered by the health care authority as described in chapter 182-531A WAC.

(3) The ABA treatment plan must:

(a) Be developed and maintained by a licensed behavior analyst (LBA) (see subsection (5) of this section);

(b) Identify the services to be delivered by the LBA, licensed assistant behavior analyst (LABA) and the certified behavior technician (CBT), if the agency employs a LABA or CBT (see subsection (5) 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.

(4) An agency certified to provide ABA services must employ a licensed behavior analyst (LBA) that meets the professional requirements in chapter 246-805 WAC.

(5) All staff providing ABA services must be credentialed and supervised according to chapter 18.830 RCW and chapter 246-805 WAC.

REPEALER

The following sections of the Washington Administrative Code are repealed:

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| WAC 246-341-0702 | Outpatient services—Individual mental health treatment services. |
| WAC 246-341-0704 | Outpatient services—Brief mental health intervention treatment services. |
| WAC 246-341-0706 | Outpatient services—Group mental health therapy services. |
| WAC 246-341-0708 | Outpatient services—Family therapy mental health services. |
| WAC 246-341-0710 | Outpatient services—Rehabilitative case management mental health services. |
| WAC 246-341-0712 | Outpatient services—Psychiatric medication management services. |
| WAC 246-341-0714 | Outpatient services—Day support mental health services. |
| WAC 246-341-0718 | Recovery support services—Recovery support—General. |
| WAC 246-341-0724 | Outpatient services—Recovery support—Peer support behavioral health services. |
| WAC 246-341-0728 | Outpatient services—Recovery support—Applied behavior analysis mental health services. |
| WAC 246-341-0738 | Outpatient services—Level one outpatient substance use disorder services. |
| WAC 246-341-0742 | Outpatient services—Substance use disorder assessment only services. |
| WAC 246-341-0744 | Outpatient services—Information and assistance services—Substance use disorder services—General. |
| WAC 246-341-0748 | Outpatient services—Substance use disorder information and assistance—Information and crisis services. |

WAC 246-341-0750 Outpatient services—Substance use disorder information and assistance—Emergency service patrol.

WAC 246-341-0754 Outpatient services—Problem gambling and gambling disorder services.

WAC 246-341-0800 Involuntary and court-ordered—Noncompliance reporting for outpatient court-ordered substance use disorder treatment.

WAC 246-341-0810 Involuntary and court-ordered—Designated crisis responder (DCR) services.

WAC 246-341-0900 Crisis mental health services—General.

WAC 246-341-0905 Crisis mental health services—Telephone support services.

WAC 246-341-0910 Crisis mental health services—Outreach services.

WAC 246-341-0915 Crisis mental health services—Stabilization services.

WAC 246-341-1050 General requirements for mental health and substance use disorder inpatient and residential services.

WAC 246-341-1060 General requirements for mental health and substance use disorder inpatient and residential services providing services under chapter 71.05 or 71.34 RCW.

WAC 246-341-1070 Inpatient and residential substance use disorder services—General.

WAC 246-341-1104 Secure withdrawal management and stabilization services.

WAC 246-341-1110 Residential substance use disorder treatment services—Intensive inpatient services.

WAC 246-341-1112 Residential substance use disorder treatment services—Low intensity (recovery house) residential treatment services.

WAC 246-341-1114 Residential substance use disorder treatment services—Long-term treatment services.

WAC 246-341-1134 Mental health inpatient services—Evaluation and treatment services.

WAC 246-341-1138 Mental health inpatient services—Child long-term inpatient program (CLIP).