

WSR 20-07-091

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed March 17, 2020, 11:24 a.m., effective May 1, 2020]

Effective Date of Rule: May 1, 2020.

Purpose: Chapter 246-341 WAC, Behavioral health administrative requirements, the department of health (department) is adopting rules to create standards for licensure or certification of intensive behavioral health treatment services and mental health peer respite services, as well as making administrative changes to how a facility becomes certified to provide services to individuals on ninety or one hundred eighty day commitment orders to implement 2SHB 1394 (chapter 324, Laws of 2019).

Citation of Rules Affected by this Order: New WAC 246-341-0725 and 246-341-1137; repealing WAC 246-341-1136; and amending WAC 246-341-0110, 246-341-0200, 246-341-0365, 246-341-0700, 246-341-0718, 246-341-1118, and 246-341-1134.

Statutory Authority for Adoption: 2SHB 1394 (chapter 324, Laws of 2019), RCW 71.24.037, 71.24.648, and 71.24.649.

Other Authority: 2SHB 1394 (chapter 324, Laws of 2019), RCW 71.24.648, and 71.24.649.

Adopted under notice filed as WSR 20-01-150 on December 17, 2019.

A final cost-benefit analysis is available by contacting Stephanie Vaughn, P.O. Box 47843, Olympia, WA 98504-7843, phone 360-236-4617, fax 360-236-2321, TTY 711, email stephanie.vaughn@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 7, Repealed 1.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 7, Repealed 1.

Date Adopted: March 13, 2020.

Jessica Todorovich
Chief of Staff
for John Wiesman, DrPH, MPH
Secretary

OTS-1823.2

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

WAC 246-341-0110 Behavioral health services—Available certifications. A behavioral health agency licensed by the department may

become certified to provide one or more of the mental health, substance use disorder, and problem and pathological gambling services listed below:

- (1) Outpatient 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 mental health services and medication support services;
 - (g) Day support mental health services;
 - (h) Mental health outpatient services provided in a residential treatment facility (RTF);
 - (i) Recovery support: Supported employment mental health services;
 - (j) Recovery support: Supported employment substance use disorder services;
 - (k) Recovery support: Supportive housing mental health services;
 - (l) Recovery support: Supportive housing substance use disorder services;
 - (m) Recovery support: Peer support mental health services;
 - (n) Recovery support: Mental health peer respite center;
 - (o) Recovery support: Wraparound facilitation mental health services;
 - ~~((o))~~ (p) Recovery support: Applied behavior analysis (ABA) mental health services;
 - ~~((p))~~ (q) Consumer-run recovery support: Clubhouse mental health services;
 - ~~((q))~~ (r) Substance use disorder level one outpatient services;
 - ~~((r))~~ (s) Substance use disorder level two intensive outpatient services;
 - ~~((s))~~ (t) Substance use disorder assessment only services;
 - ~~((t))~~ (u) Substance use disorder alcohol and drug information school services;
 - ~~((u))~~ (v) Substance use disorder information and crisis services;
 - ~~((v))~~ (w) Substance use disorder emergency service patrol services;
 - ~~((w))~~ (x) Substance use disorder screening and brief intervention services; and
 - ~~((x))~~ (y) Problem and pathological gambling services.
- (2) Involuntary and court-ordered outpatient services:
 - (a) Less restrictive alternative (LRA) or conditional release support behavioral health services;
 - (b) Emergency involuntary detention designated crisis responder (DCR) mental health and substance use disorder services;
 - (c) Substance use disorder counseling services subject to RCW 46.61.5056; and
 - (d) Driving under the influence (DUI) substance use disorder assessment services.
- (3) Crisis mental health services:
 - (a) Crisis mental health telephone support services;
 - (b) Crisis mental health outreach services;
 - (c) Crisis mental health stabilization services; and
 - (d) Crisis mental health peer support services.
- (4) Opioid treatment program (OTP) services.

- (5) Withdrawal management, residential substance use disorder treatment, and mental health inpatient services:
- (a) Withdrawal management facility services:
 - (i) Withdrawal management services - Adult;
 - (ii) Withdrawal management services - Youth;
 - (iii) Secure withdrawal management and stabilization services - Adult; and
 - (iv) Secure withdrawal management and stabilization services - Youth.
 - (b) Residential substance use disorder treatment services:
 - (i) Intensive substance use disorder inpatient services;
 - (ii) Recovery house services;
 - (iii) Long-term treatment services; and
 - (iv) Youth residential services.
 - (c) Mental health inpatient services:
 - (i) Evaluation and treatment services - Adult;
 - (ii) Evaluation and treatment services - Youth;
 - (iii) Intensive behavioral health treatment services;
 - (iv) Child long-term inpatient program services;
 - ~~((iv))~~ (v) Crisis stabilization unit services;
 - ~~((v))~~ (vi) Triage - Involuntary services;
 - ~~((vi))~~ (vii) Triage - Voluntary services; and
 - ~~((vii))~~ (viii) Competency evaluation and restoration treatment services.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0110, filed 4/16/19, effective 5/17/19.]

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

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

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

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

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

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

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

"Authority" means the Washington state health care authority.

"Background check" means a search for criminal history record information that includes nonconviction data. A background check may in-

clude a national fingerprint-based background check, including a Federal Bureau of Investigation criminal history search.

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

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

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

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

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

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

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

"Change in ownership" means one of the following:

- (a) The ownership of a licensed behavioral health agency changes from one distinct legal owner to another distinct legal owner;
- (b) The type of business changes from one type to another, such as, from a sole proprietorship to a corporation; or
- (c) The current ownership takes on a new owner of five per cent or more of the organizational assets.

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

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

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

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

- (a) A minimum of one hundred actual hours (not quarter or semester hours) of special training in child development and the treatment of children with serious emotional disturbance and their families; and
- (b) The equivalent of one year of full-time experience in the treatment of seriously emotionally disturbed children and their families under the supervision of a child mental health specialist.

"Clinical record" means either a paper, or electronic file, or both that is maintained by the behavioral health agency and contains

pertinent psychological, medical, and clinical information for each individual served.

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

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

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

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

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

- (a) Assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week;
- (b) Prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law;
- (c) Screening for patients being considered for admission to residential services;
- (d) Diagnosis and treatment for children who are mentally or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment (EPSDT) program;
- (e) Investigation, legal, and other nonresidential services under chapter 71.05 RCW;
- (f) Case management services;
- (g) Psychiatric treatment including medication supervision;
- (h) Counseling;
- (i) Psychotherapy;
- (j) Assuring transfer of relevant patient information between service providers;
- (k) Recovery services; and
- (l) Other services determined by behavioral health organizations.

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

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

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

"Co-occurring disorder" means the (~~co-existence~~) 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.

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

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

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

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

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

(d) A bomb threat;

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

(f) Suicide attempt at the facility;

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

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

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

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

"Department" means the Washington state department of health.

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

a person must complete substance use disorder training specific to the duties of a designated crisis responder.

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

- (a) Has a record of such an impairment; or
- (b) Is regarded as having such impairment.

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

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

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

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

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

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

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

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

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

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

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

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

- (a) A psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse

practitioner (ARNP), psychiatric nurse, or social worker as defined in chapters 71.05 and 71.34 RCW;

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

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

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

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

"Minor" means the same as "child."

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

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

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

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

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

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

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

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

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

"Recovery" means the ~~((process in which people are able to live, work, learn, and participate fully in their communities))~~ same as defined in RCW 71.24.025.

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

"Remodeling" means expanding existing office space to additional office space at the same address, or remodeling interior walls and

space within existing office space to a degree that accessibility to or within the facility is impacted.

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

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

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

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

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

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

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

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

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

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

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

"Tribal authority" means, for the purposes of behavioral health organizations and RCW 71.24.300 only, the federally recognized Indian tribes and the major Indian organizations recognized by the secretary as long as these organizations do not have a financial relationship

with any behavioral health organization that would present a conflict of interest.

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

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

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

"Youth" means the same as "child."

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0200, filed 4/16/19, effective 5/17/19.]

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

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

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

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

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

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

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

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

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

(a) The number of licensed withdrawal management and residential beds; and

(b) The agency provider's national accreditation status.

(7) The department charges the following fees for approved mental health treatment programs:

Initial licensing application fee for mental health treatment programs	
Licensing application fee	\$1,000 initial licensing fee
Initial and annual licensing fees for agencies not deemed	
Annual service hours provided:	Initial and annual licensing fees:
0-3,999	\$728
4,000-14,999	\$1,055
15,000-29,999	\$1,405
30,000-49,999	\$2,105
50,000 or more	\$2,575
Annual licensing fees for deemed agencies	
Deemed agencies licensed by the department	\$500 annual licensing fee
Complaint/critical incident investigation fee	
All residential and nonresidential agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

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

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

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

(9) Agencies providing ~~((inpatient))~~ 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.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0365, filed 4/16/19, effective 5/17/19.]

SECTION SEVEN—OUTPATIENT AND RECOVERY SUPPORT SERVICES

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

WAC 246-341-0700 Outpatient and recovery support services—General. 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 following:

(a) Individual mental health treatment services;

(b) Brief mental health intervention treatment services;

(c) Group mental health therapy services;

(d) Family therapy mental health services;

(e) Rehabilitative case management mental health services;

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

(g) Day support mental health services;

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

(i) ~~((Recovery support services including:~~

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

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

~~(iii) Peer support mental health services;~~

~~(iv) Wraparound facilitation mental health services;~~

- ~~(v)~~ Applied behavior analysis (ABA) mental health services; and
~~(vi)~~ Consumer-run clubhouse mental health services.
~~(j)~~) Level one outpatient substance use disorder services;
~~((k))~~ (j) Level two intensive outpatient substance use disorder services;
~~((l))~~ (k) Substance use disorder assessment only services;
~~((m))~~ (l) Alcohol and drug information school;
~~((n))~~ (m) Substance use disorder information and crisis services;
~~((o))~~ (n) Substance use disorder emergency service patrol services;
~~((p))~~ (o) Substance use disorder screening and brief intervention services; and
~~((q))~~ (p) Problem and pathological gambling services.
(2) Recovery support services include the following:
(a) Supported employment mental health and substance use disorder services;
(b) Supportive housing mental health and substance use disorder services;
(c) Peer support mental health services;
(d) Wraparound facilitation mental health services;
(e) Applied behavior analysis (ABA) mental health services;
(f) Consumer-run clubhouse mental health services; and
(g) Mental health peer respite services.
(3) A behavioral health agency that provides outpatient or recovery support services must:
(a) Be licensed by the department as a behavioral health agency; and
(b) Meet the applicable program-specific requirements for each ~~(outpatient)~~ behavioral health service ~~(s)~~ provided.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0700, filed 4/16/19, effective 5/17/19.]

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

WAC 246-341-0718 ((Outpatient)) Recovery support services—Recovery support—General. Recovery support services are intended to promote an individual's socialization, recovery, self-advocacy, development of natural support, and maintenance of community living skills.
(1) Recovery support services include:
(a) Supported employment services;
(b) Supportive housing services;
(c) Peer support services;
(d) Mental health peer respite services;
(e) Wraparound facilitation services;
~~((e))~~ (f) Applied behavior analysis (ABA) services; and
~~((f))~~ (g) Consumer-run clubhouse services.
(2) An agency that provides any recovery support service may operate through an agreement with a licensed behavioral health agency that provides certified outpatient behavioral health services listed in WAC 246-341-0700. The agreement must specify the responsibility for initial assessments, the determination of appropriate services, indi-

vidual service planning, and the documentation of these requirements. Subsections (3) through (5) of this section list the abbreviated requirements for assessments, staff, and clinical records.

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

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

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

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

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

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

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

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

(a) Documentation of the following:

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

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

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

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

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-0718, filed 4/16/19, effective 5/17/19.]

NEW SECTION

WAC 246-341-0725 Recovery support services—Recovery support—Mental health peer respite. (1) Mental health peer respite services are voluntary, holistic, trauma-informed, short-term, noncrisis 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 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 requirements in:

(a) WAC 246-341-0718 for recovery support services; and

(b) WAC 246-341-0724 for peer support services.

(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 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 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 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.

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

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

(a) Evaluation and treatment services;

(b) Intensive behavioral health treatment services;

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

~~((e))~~ (d) Crisis stabilization units;

~~((d))~~ (e) Triage services; and

~~((e))~~ (f) Competency evaluation and treatment services.

(2) An agency providing inpatient services to an individual must:

(a) Be a facility licensed by the department under one of the following chapters:

(i) Hospital licensing regulations (chapter 246-320 WAC);

(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);

(iii) Private alcohol and substance use disorder hospitals (chapter 246-324 WAC); or

(iv) Residential treatment facility (chapter 246-337 WAC).

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

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650;

(d) Meet the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132;

(e) Have policies and procedures to support and implement the specific applicable program-specific requirements; and

(f) If applicable, have policies to ensure compliance with WAC 246-337-110 regarding seclusion and restraint.

(3) The behavioral health agency providing inpatient services must document the development of an individualized annual training plan, to include at least:

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

(b) Methods of individual care;

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

(d) The requirements of chapter 71.05 and 71.34 RCW, this chapter, and protocols developed by the department.

(4) If contract staff are providing direct services, the facility must ensure compliance with the training requirements outlined in subsection ~~((4))~~ (3) of this section.

(5) This chapter does not apply to state psychiatric hospitals as defined in chapter 72.23 RCW or facilities owned or operated by the department of veterans affairs or other agencies of the United States government.

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1118, filed 4/16/19, effective 5/17/19.]

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

WAC 246-341-1134 Mental health inpatient services—Evaluation and treatment services. Evaluation and treatment services are provided for individuals who are detained or on fourteen, ninety, or one hundred eighty-day civil commitment orders according to chapter 71.05 RCW. An agency providing evaluation and treatment services may choose to serve individuals on short-term commitment orders (fourteen-day),

long-term commitment orders (ninety-day and one hundred eighty-day), or both. Agencies providing evaluation and treatment services may also provide services for individuals who are not detained or committed.

(1) In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650, and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132 an agency providing evaluation and treatment services must ensure:

~~((1))~~ (a) Designation of a physician or other mental health professional as the professional person as defined in RCW 71.05.020 in charge of clinical services at that facility; and

~~((2))~~ (b) A policy management structure that establishes:

~~((a))~~ (i) Procedures to assure appropriate and safe transportation for persons who are not approved for admission to his or her residence or other appropriate place;

~~((b))~~ (ii) Procedures to detain arrested persons who are not approved for admission for up to eight hours so that reasonable attempts can be made to notify law enforcement to return to the facility and take the person back into custody;

~~((c))~~ (iii) Procedures to assure the rights of individuals to make mental health advance directives, and facility protocols for responding to individual and agent requests consistent with RCW 71.32.150;

~~((d))~~ (iv) Procedures to ensure that if the facility releases the individual to the community, the facility informs the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and has provided contact information to the facility;

~~((e))~~ (v) Procedures to document that each individual has received evaluations to determine the nature of the disorder and the treatment necessary, including a psychosocial evaluation by a mental health professional; and

~~((f))~~ (vi) For individuals who are being evaluated as dangerously mentally ill offenders under RCW 72.09.370(7), the professional person in charge of the evaluation and treatment facility must consider filing a petition for a ninety day less restrictive alternative in lieu of a petition for a fourteen-day commitment.

(2) A facility certified to provide evaluation and treatment services for youth may provide treatment for a child on a one hundred eighty-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 child long-term inpatient treatment facility (CLIP).

[Statutory Authority: 2018 c 201 and 2018 c 291. WSR 19-09-062, § 246-341-1134, filed 4/16/19, effective 5/17/19.]

NEW SECTION

WAC 246-341-1137 Behavioral health inpatient services—Intensive behavioral health treatment services. (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) In addition to meeting the agency licensure, certification, administration, personnel, and clinical requirements in WAC 246-341-0100 through 246-341-0650, and the applicable inpatient services requirements in WAC 246-341-1118 through 246-341-1132, an agency providing 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 hour observation of individuals by at least two staff who are awake and on duty.

(3) The agency may:

(a) Only admit individuals at least eighteen 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) The agency must follow WAC 246-341-0805 regarding less restrictive alternative services.

(5) 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) 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 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 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) The agency must provide access to or referral to substance use disorder services, and other specialized services, as needed.

(8) 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) 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) 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 person 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(15) 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) 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 survey 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 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) 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 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 complaint with the department of health for any reason;

(g) Examine the results of the most recent survey or inspection of the agency conducted by federal or state surveyors 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) The individual and their representative have the right to:
- (a) Access all records pertaining to the individual including clinical 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.

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REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-341-1136 Mental health inpatient services—
Exception—Long-term certification.