

(Effective until May 1, 2023)

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) 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 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) The agency must protect and promote the rights of each individual and assist the individual to exercise their rights as an indi-

vidual, 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 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 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) 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.

[Statutory Authority: RCW 71.24.037, 71.05.560, 71.34.380, 18.205.160, 71.24.037 and chapters 71.05, 71.24, and 71.34 RCW. WSR 21-12-042, §

246-341-1137, filed 5/25/21, effective 7/1/21. Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-1137, filed 3/17/20, effective 5/1/20.]

(Effective May 1, 2023)

WAC 246-341-1137 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 within the agency for discharge planning; and

(c) With 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 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.

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

(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.

(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, 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 and 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 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.

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

(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.

(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.

(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 follow-

ing 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.

(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 individual service records with the consent 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 an 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.

(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 consent or refuse to consent to the release of personal and 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 individuals receiving services at the agency;
 - (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 individual service 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.

(14) The individual and their representative have the right to:

(a) Access all records pertaining to the individual including individual service records according to requirements in WAC 246-341-0425; 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.

[Statutory Authority: RCW 71.24.037, 71.05.560, 71.34.380, 18.205.160, 43.70.080(5), 41.05.750, 43.70.250, and 74.09.520 and chapters 71.05, 71.12, 71.24 and 71.34 RCW. WSR 22-24-091, § 246-341-1137, filed 12/6/22, effective 5/1/23. Statutory Authority: RCW 71.24.037, 71.05.560, 71.34.380, 18.205.160, 71.24.037 and chapters 71.05, 71.24, and 71.34 RCW. WSR 21-12-042, § 246-341-1137, filed 5/25/21, effective 7/1/21. Statutory Authority: 2019 c 324, RCW 71.24.037, 71.24.648, and 71.24.649. WSR 20-07-091, § 246-341-1137, filed 3/17/20, effective 5/1/20.]