

WSR 22-06-052

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed February 25, 2022, 8:23 a.m., effective February 25, 2022, 8:23 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-930-010 Sex offender treatment provider. The department of health (department) is continuing the emergency rule amendment to WAC 246-930-010 to remove the words "face-to-face" from the definition of sex offender treatment, enabling sex offenders to continue accessing telehealth treatment and enabling increased social distancing during the coronavirus disease 2019 (COVID-19) declared emergency.

These rules continue the initial emergency rules that were filed on July 9, 2020, as WSR 20-15-057 and subsequently extended under WSR 20-23-011 on November 6, 2020, WSR 21-07-017 on March 5, 2021, WSR 21-14-058 on July 2, 2021, and WSR 21-22-066 on October 29, 2021. As part of the department's continuing response to the evolving COVID-19 public health threat, continuing this emergency rule will allow sex offenders to maintain access to care to prevent recidivism, while mitigating the further spread of COVID-19 and its variants.

Citation of Rules Affected by this Order: Amending WAC 246-930-010.

Statutory Authority for Adoption: RCW 18.155.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The immediate continuation of this emergency rule is necessary for the preservation of public health, safety, and general welfare. By extending the emergency rule amendment, the department will continue allowing sex offender treatment to occur through telehealth. By allowing treatment through telehealth rather than face-to-face, the department will support both the health of sex offenders, who require access to treatment, and the welfare of the public, who are at risk if offenders recidivate. Additionally, allowing telehealth treatment will help reduce community transmission of COVID-19 and its variants. Telehealth treatment is not an ideal substitute for in-person group or individual therapy sessions; however, it is a tool that will allow sex offenders to maintain access to care and will mitigate public health concerns created by COVID-19 while vaccine and booster distribution continues.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

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

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

Date Adopted: February 22, 2022.

Kristin Peterson, JD
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Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

OTS-2368.1

AMENDATORY SECTION (Amending WSR 07-09-092 [21-13-079], filed 4/18/07 [6/15/21], effective 5/19/07 [7/16/21])

WAC 246-930-010 General definitions. In these rules, the following terms shall have the definition described below, unless another definition is stated:

(1) "Affiliate sex offender treatment provider" or "affiliate" means an individual who has satisfactorily passed the examination, met the education requirements, and has been issued a certificate to evaluate and treat sex offenders under chapter 18.155 RCW, and under the supervision of a certified sex offender treatment provider in accordance with the supervision requirements set forth in WAC 246-930-075.

(2) "Certified sex offender treatment provider" or "provider" means an individual who has satisfactorily passed the examination, met the education and experience requirements, and has been issued a certificate by the department to evaluate and treat sex offenders under chapter 18.155 RCW.

(3) "Client" means a person who has been investigated by law enforcement or child protective services for committing or allegedly committing a sex offense, or who has been convicted of a sex offense.

(4) "Committee" means the sex offender treatment providers advisory committee.

(5) "Community protection contract" means the document specifying the treatment rules and requirements the client has agreed to follow in order to maximize community safety.

(6) "Co-therapy hours" means the actual number of hours the applicant spent facilitating a group session.

(7) "Credential" or its derivative means the process of licensing, registration, certification or the equivalent through which a person is legally recognized by a state agency as lawfully authorized to practice a health profession.

(8) "Department" means the department of health.

(9) "Evaluation" means a comprehensive assessment or examination of a client conducted by a provider or affiliate that examines the client's offending behavior. Evaluation results must be detailed in a written report. Examples of evaluations include forensic, SSOSA, and SSODA evaluations. Standards for assessment and evaluation reports, and evaluation experience credit are located in WAC 246-930-320 and 246-930-340.

(10) "Parties" means the defendant, the prosecuting attorney, and the supervising officer.

(11) "Secretary" means the secretary of the department of health, or designee.

(12) "SSODA" means special sex offender disposition alternative, authorized under RCW 13.40.160.

(13) "SSOSA" means special sex offender sentencing alternative, authorized under RCW 9.94A.670.

(14) "Supervising officer" is the designated representative of the agency having oversight responsibility for a client sentenced under SSOSA or SSODA, for example, a community corrections officer or a juvenile probation officer.

(15) "Treatment" means (~~face-to-face~~) individual, group, or family therapy, provided by an affiliate or provider, to a client. Treatment is focused on the client's offending behavior.

(16) "Treatment plan" means a written statement of intended care and services as documented in the evaluation that details how the client's treatment needs will be met while protecting the community during the course of treatment.

[Statutory Authority: RCW 18.155.040. WSR 07-09-092, § 246-930-010, filed 4/18/07, effective 5/19/07; WSR 94-13-179, § 246-930-010, filed 6/21/94, effective 7/22/94; WSR 92-12-027 (Order 275), § 246-930-010, filed 5/28/92, effective 6/28/92; WSR 91-23-076 (Order 212), § 246-930-010, filed 11/19/91, effective 12/20/91; WSR 91-11-063 (Order 168), § 246-930-010, filed 5/16/91, effective 6/16/91.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.