Chapter 388-865 WAC

COMMUNITY MENTAL HEALTH AND INVOLUNTARY TREATMENT PROGRAMS

WAC

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388-865-0203 Allocation formula for state hospital beds. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0203, filed 5/31/01, effective 7/1/01.] Repealed by 06-18-057, filed 8/31/06, effective 10/1/06. Statutory Authority: RCW 71.24.035 and chapter 71.24 RCW.

388-865-0340 Consumer disenrollment. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0340, filed 5/31/01, effective 7/1/01.] Repealed by 05-17-154, filed 8/22/05, effective 9/22/05. Statutory Authority: RCW 71.24.035.

388-865-0474 Fees for community support service provider licensure. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0474, filed 5/31/01, effective 7/1/01.] Repealed by 12-05-090, filed 2/17/12, effective 3/19/12. Statutory Authority: RCW 43.20B.-110, 43.135.055, 71.24.035, and 2011 c 50.

388-865-0501 Certification based on deemed status. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.-800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0501, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0502 Single bed certification. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0502, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0504 Exception to rule—Long-term certification. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.-800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0504, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0505 Evaluation and treatment facility certification—Minimum standards. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0505, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0510 Standards for administration. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0510, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0515 Admission and intake evaluation. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0515, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0516 Certification fees. [Statutory Authority: RCW 71.05.-560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0516, filed 3/4/04, effective 4/4/04.] Repealed by 12-05-090, filed 2/17/12, effective 3/19/12. Statutory Authority: RCW 43.20B.110, 43.135.055, 71.24.035, and 2011 c 50.

388-865-0525 Clinical record. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0525, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0530 Competency requirements for staff. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0530, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0535 The process for gaining certification and renewal of certification. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0535, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0540 Fees for evaluation and treatment facility certification. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0540, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0550 Rights of all consumers who receive community inpatient services. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0550, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0555 Rights of consumers receiving involuntary inpatient services. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.-335. 01-12-047, § 388-865-0555, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0557 Rights related to antipsychotic medication. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.-800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0557, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0560 Rights of consumers who receive emergency and inpatient services voluntarily. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0560, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

388-865-0565 Petition for the right to possess a firearm. [Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.-800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0565, filed 5/31/01, effective 7/1/01.] Repealed by 04-07-014, filed 3/4/04, effective 4/4/04.

Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW.

SECTION ONE—COMMUNITY MENTAL HEALTH AND INVOLUNTARY TREATMENT PROGRAMS

WAC 388-865-0100 Purpose. Chapter 388-865 of the Washington Administrative Code implements chapters 71.05, 71.24, and 71.34 RCW, and the mental health Title XIX Section 1915 (b) medicaid waiver provisions.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0100, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0103 Fee requirements for mental health treatment programs. (1) The department charges the following fees to reimburse costs for its licensing and certification activities for mental health treatment programs:

Initial Licensing Application Fee for Mental Health Treatment Programs	
Licensing application fee	$1,000 initial licensing fee
Initial and Annual Certification Fees	
Evaluation and treatment (E&T) bed fees	$90 initial certification fee, per bed $90 annual certification fee, per bed
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 DBHR	$500 annual licensing fee
Complaint/Incident Investigation Fee	
All residential and nonresidential agencies	$1,000 per substantiated complaint investigation and $1,000 per substantiated incident investigation

(2) Initial and annual licensing/certification fees identified in the table in subsection (1) of this section must:

(a) Be sent with an initial application or with an annual license/certification renewal.

(b) Cover a minimum of one year.

(c) Be made payable to the division of behavioral health and recovery by check, electronic fund transfer, or money order.

(3) Failure to pay fees when due will result in suspension or denial of the license/certification.

(4) The department:

(a) May refund one-half of the fees submitted with an initial application if the application is withdrawn before the department issues the license.

(b) Will not refund fees when a license or certificate is denied, revoked, or suspended.

(c) Requires a new license and payment of fees for a change in agency ownership.

(5) Agencies providing nonresidential services must report the number of annual service hours provided based on the division of behavioral health and recovery's (DBHR's) current published "Service Encounter Reporting Instructions for RSNs" and the "Consumer Information System (CIS) Data Dictionary for RSNs." These publications are available at the DBHR website at: http://www.dshs.wa.gov/dbhr/mhpublications.shtml.

(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.

[Statutory Authority: RCW 43.20B.110, 43.135.055, 71.24.035, and 2011 c 50. 12-05-090, § 388-865-0103, filed 2/17/12, effective 3/19/12.]

WAC 388-865-0105 What the mental health division does and how it is organized. (1) The department of social and health services is designated by the legislature as the state mental health authority, and has designated the mental health division to administer the state mental health program.

(2) Local services are administered by regional support networks or by the mental health division.

(3) Telephone numbers for the mental health division or regional support networks are located in the local telephone directory and can also be obtained by calling the mental health division at the telephone number in subsection (4) of this section.

(4) To request an organizational chart, contact the mental health division at 1-888-713-6010 or (360) 902-8070, or write to the Mental Health Division Director, P.O. Box 45320, Olympia, WA 98504.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.380, and 74.08.090. 09-02-030, § 388-865-0105, filed 12/30/08, effective 1/30/09. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0105, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0105, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0106 When local services are administered by the mental health division. (1) The mental health division administers local services if:

(a) A regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045; or

(b) The DSHS secretary assumes the duties assigned to a nonparticipating regional support network under RCW 71.24.035(16).

(2) Consumers residing within the boundaries of a nonparticipating regional support network who are eligible for the Title XIX medicaid program are entitled to receive medically necessary services without charge to the consumer;

(3) Within available resources as defined in RCW 71.24.025(2), consumers residing within the boundaries of a nonparticipating regional support network may receive services from any provider of community support services that is contracted with the department under the provisions of chapter 388-502 WAC and licensed by or certified by the mental health division;

(4) When the DSHS secretary assumes the duties assigned to a nonparticipating regional support network, the following standards and services continue to apply:

(a) WAC 388-865-0217 Psychiatric indigent inpatient program;

(b) WAC 388-865-0222 Advisory board;

(c) WAC 388-865-0225 Resource management;

(d) WAC 388-865-0229 Inpatient services;

(e) WAC 388-865-0230 Community support services;

(f) WAC 388-865-0235 Residential and housing services;

(g) WAC 388-865-0240 Consumer employment services;

(h) WAC 388-865-0245 Administration of ITA;

(i) WAC 388-865-0250 Ombuds services;

(j) WAC 388-865-0255 Consumer grievance process; and

(k) WAC 388-865-0284 Standards for contractors and subcontractors.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.380, and 74.08.090. 09-02-030, § 388-865-0106, filed 12/30/08, effective 1/30/09.]

WAC 388-865-0107 Peer counselor certification. The mental health division certifies consumers to provide peer support services.

(1) In order to be certified as a peer counselor, all applicants must meet the following requirements:

(a) Be a self-identified consumer of mental health services, as defined;

(b) Maintain registration as a counselor under chapter 18.19 RCW;

(c) Complete specialized training provided or contracted by the mental health division; and

(d) Successfully pass an examination administered by the mental health division or an authorized contractor.

(2) The training requirement specified in (2)(c) of this subsection is waived for consumers who were trained prior to October 1, 2004 by trainers approved by the mental health division, provided that all of the other requirements are met by January 31, 2005.

(3) A consumer whose request for certification is denied has the right to contest this decision by submitting a written request to the mental health division within twenty-eight calendar days of the date of notification:

(a) The request should include the consumer's name, address, and telephone number and a brief explanation of the issue and resolution being requested;

(b) The consumer also has the right to use the state administrative hearing process as described in chapter 388-02 WAC;

(c) A consumer who completes the administrative hearing process may request reconsideration in accordance with chapter 388-02 WAC but does not have recourse to review by the DSHS board of appeals.

[Statutory Authority: RCW 71.24.035 (5)(c), 71.24.037. 05-17-156, § 388-865-0107, filed 8/22/05, effective 9/22/05.]

WAC 388-865-0110 Access to records of registration. The mental health division, regional support networks, mental health prepaid health plans, and service providers must ensure that information about the fact that a consumer has or is receiving mental health services is not shared or released except as specified under RCW 71.05.390 and other laws and regulations about confidentiality as noted below in WAC 388-865-0115.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0110, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0115 Access to clinical records. There are numerous federal and state rules and regulations on the subjects of confidentiality and access to consumer clinical records. Many of the rules are located in chapter 70.02 RCW, RCW 71.05.390, 71.05.400, 71.05.410, 71.05.420, 71.05.-430, 71.05.440, 71.05.445, 71.05.610 through 71.05.680, 71.34.160, 71.34.162, 71.34.170, 71.34.200, 71.34.210, 71.34.220, 71.34.225, 13.50.100(4)(b), and 42 C.F.R. 431 and 438, and 42 C.F.R. Part 2 of the Code of Federal Regulations and are not repeated in these rules.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0115, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0120 Waiver of a minimum standard of this chapter. (1) A regional support network, mental health prepaid health plan, service provider or applicant subject to the rules in this chapter may request a waiver of any sections or subsections of these rules by submitting a request in writing to the director of the mental health division. The request must include:

(a) The name and address of the entity that is making the request;

(b) The specific section or subsection of these rules for which a waiver is being requested;

(c) The reason why the waiver is necessary, or the method the entity will use to meet the desired outcome of the section or subsection in a more effective and efficient manner;

(d) A description of the plan and timetable to achieve compliance with the minimum standard or to implement, test, and report results of an improved way to meet the intent of the section or subsection. In no case will the mental health division write a waiver of minimum standards for more than the time period of the entity's current license and/or certificate.

(2) For agencies contracting with a regional support network or mental health prepaid health plan, a statement by the regional support network or mental health prepaid health plan

recommending mental health division approval of the request, including:

(a) Recommendations, if any, from the quality review team or ombuds staff; and

(b) A description of how consumers will be notified of changes made as a result of the exception.

(3) The mental health division makes a determination on the waiver request within thirty days from date of receipt. The review will consider the impact on accountability, accessibility, efficiency, consumer satisfaction, and quality of care and any violations of the request with state or federal law.

(4) When granting the request, the mental health division issues a notice to the person making the request, and the involved regional support network if the regional support network is not the applicant, that includes:

(a) The section or subsection waived;

(b) The conditions of acceptance;

(c) The time frame for which the waiver is approved;

(d) Notification that the agreement may be reviewed by the mental health division and renewed, if requested.

(5) When denying the request, the mental health division includes the reason for the decision in the notice sent to the person making the request.

(6) The mental health division does not waive any requirement that is part of statute.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0120, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0150 Definitions. "Adult" means a person on or after their eighteenth birthday. For persons eligible for the medicaid program, adult means a person on or after his/her twenty-first birthday.

"Certified peer counselor" is defined as a consumer of mental health services who has met the registration, experience, and training requirements, has satisfactorily passed the examination, and has been issued a certificate by the mental health division as specified in WAC 388-865-0107.

"Child" means a person who has not reached his/her eighteenth birthday. For persons eligible for the medicaid program, child means a person who has not reached his/her twenty-first birthday.

"Clinical services" means those direct age and culturally appropriate consumer services which either:

(1) Assess a consumer's condition, abilities or problems;

(2) Provide therapeutic interventions which are designed to ameliorate psychiatric symptoms and improve a consumer's functioning.

"Consumer" means a person who has applied for, is eligible for or who has received mental health services. For a child, under the age of thirteen, or for a child age thirteen or older whose parents or legal guardians are involved in the treatment plan, the definition of consumer includes parents or legal guardians.

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

"Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system or agency and enable that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates at all levels the importance of language and culture, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, expansion of cultural knowledge and adaptation of services to meet culturally unique needs.

"Ethnic minority" or **"racial/ethnic groups"** means, for the purposes of this chapter, any of the following general population groups:

(1) African American;

(2) An American Indian or Alaskan native, which includes:

(a) A person who is a member or considered to be a member in a federally recognized tribe;

(b) A person determined eligible to be found Indian by the secretary of interior, and

(c) An Eskimo, Aleut, or other Alaskan native.

(d) A Canadian Indian, meaning a person of a treaty tribe, Metis community, or nonstatus Indian community from Canada.

(e) An unenrolled Indian meaning a person considered Indian by a federally or nonfederally recognized Indian tribe or off reservation Indian/Alaskan native community organization.

(3) Asian/Pacific Islander; or

(4) Hispanic.

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

"Mental health division" means the mental health division of the Washington state department of social and health services (DSHS). DSHS has designated the mental health division as the state mental health authority to administer the state and medicaid funded mental health program authorized by chapters 71.05, 71.24, and 71.34 RCW.

"Mental health professional" means:

(1) A psychiatrist, psychologist, psychiatric nurse or social worker as defined in chapters 71.05 and 71.34 RCW;

(2) A person with a masters degree or further advanced degree in counseling or one of the social sciences from an accredited college or university. Such person shall have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the supervision of a mental health professional;

(3) A person who meets the waiver criteria of RCW 71.24.260, which was granted prior to 1986;

(4) A person who had an approved waiver to perform the duties of a mental health profession that was requested by the

regional support network and granted by the mental health division prior to July 1, 2001; or

(5) A person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the mental health division consistent with WAC 388-865-0265.

"Mental health specialist" means:

(1) A **"child mental health specialist"** is defined as 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 and youth 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 youth and their families under the supervision of a child mental health specialist.

(2) A **"geriatric mental health specialist"** is defined as a mental health professional who has the following education and experience:

(a) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the mental health problems and treatment of persons sixty years of age or older; and

(b) The equivalent of one year of full-time experience in the treatment of persons sixty years of age or older, under the supervision of a geriatric mental health specialist.

(3) An **"ethnic minority mental health specialist"** is defined as a mental health professional who has demonstrated cultural competence attained through major commitment, ongoing training, experience and/or specialization in serving ethnic minorities, including evidence of one year of service specializing in serving the ethnic minority group under the supervision of an ethnic minority mental health specialist; and

(a) Evidence of support from the ethnic minority community attesting to the person's commitment to that community; or

(b) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to ethnic minority issues and treatment of ethnic minority consumers.

(4) A **"disability mental health specialist"** is defined as a mental health professional with special expertise in working with an identified disability group. For purposes of this chapter only, **"disabled"** means an individual with a disability other than a mental illness, including a developmental disability, serious physical handicap, or sensory impairment.

(a) If the consumer is deaf, the specialist must be a mental health professional with:

(i) Knowledge about the deaf culture and psychosocial problems faced by people who are deaf; and

(ii) Ability to communicate fluently in the preferred language system of the consumer.

(b) The specialist for consumers with developmental disabilities must be a mental health professional who:

(i) Has at least one year's experience working with people with developmental disabilities; or

(ii) Is a developmental disabilities professional as defined in RCW 71.05.020.

"Older person" means an adult who is sixty years of age or older.

"Regional Support Network (RSN)" means a county, a combination of counties, or a private nonprofit entity that administers and provides publicly funded mental health services for a designated geographic area within the state.

"Service recipient" means for the purposes of a mental health prepaid health plan, a consumer eligible for the Title XIX medicaid program.

"Substantial hardship" means that a consumer will not be billed for emergency involuntary treatment if he or she meets the eligibility standards of the psychiatric indigent inpatient program that is administered by the DSHS economic services administration.

"Supervision" means monitoring of the administrative, clinical, or clerical work performance of staff, students, volunteers, or contracted employees by persons with the authority to give direction and require change.

"Underserved" means consumers who are:

(1) Minorities;

(2) Children;

(3) Older adults;

(4) Disabled; or

(5) Low-income persons.

[Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0150, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.24.035 (5)(c), 71.24.037. 05-17-156, § 388-865-0150, filed 8/22/05, effective 9/22/05. Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.800, and 2003 1st sp.s. c 25. 03-24-030, § 388-865-0150, filed 11/24/03, effective 12/25/03. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0150, filed 5/31/01, effective 7/1/01.]

SECTION TWO—REGIONAL SUPPORT NETWORKS

WAC 388-865-0200 Regional support networks. The mental health division contracts with certified regional support networks to administer all mental health services activities or programs within their jurisdiction using available resources. The regional support network must ensure services are responsive in an age and culturally competent manner to the mental health needs of its community. To gain and maintain certification, the regional support network must comply with all applicable federal, state and local laws and regulations, and all of the minimum standards of this section. The community mental health program administered by the regional support network includes the following programs:

(1) Administration of the involuntary treatment program, including investigation, detention, transportation, court related and other services required by chapters 71.05 and 71.34 RCW;

(2) Resource management program as defined in RCW 71.24.025(15) and this section;

(3) Community support services as defined in RCW 71.24.025(7);

(4) Residential and housing services as defined in RCW 71.24.025(14);

(5) Ombuds services;

(6) Quality review teams;

(7) Inpatient services as defined in chapters 71.05 and 71.34 RCW; and

(8) Services operated or staffed by consumers, former consumers, family members of consumers, or other advocates. If the service is clinical, the service must comply with the requirements for licensed services. Consumer or advocate run services may include, but are not limited to:

(a) Consumer and/or advocate operated businesses;

(b) Consumer and/or advocate operated and managed clubhouses;

(c) Advocacy and referral services;

(d) Consumer and/or advocate operated household assistance programs;

(e) Self-help and peer support groups;

(f) Ombuds service; and

(g) Other services.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0200, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0205 Initial certification of a regional support network. An entity is initially certified if it is selected to be a regional support network for a designated geographic area through a Request for Proposal process. In order to gain certification as a regional support network under circumstances other than through a Request for Proposal, an entity must submit to the department:

(1) A statement of intent to become a regional support network;

(2) A preliminary operating plan which meets departmental guidelines and complies with the requirements of RCW 71.24.045 and 71.24.300.

(3) If the entity proposes to serve more than one county or the designated geographic area includes a tribal authority, the entity must also include a joint operating agreement that includes the following:

(a) Identification of a single authority with final responsibility for all available resources and performance of the contract with the department consistent with chapters 71.05, 71.24, and 71.34 RCW;

(b) Assignment of all responsibilities required by RCW 71.24.300; and

(c) Participation of tribal authorities in the agreement at the request of the tribal authorities.

(4) Within thirty days of the submission the department will provide a written response either:

(a) Certifying the regional support network; or

(b) Denying certification because the requirements are not met.

[Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0205, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0205, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0210 Renewal of regional support network certification. At least biennially the mental health division reviews the compliance of each regional support network with the statutes, applicable rules and regulations, applicable standards, and state minimum standards as defined in this chapter:

(1) If the regional support network is in compliance with the statutes, applicable rules and regulations, applicable standards, and state minimum standards, the mental health division provides the regional support network with a written certificate of compliance.

(2) If the regional support network is not in compliance with the statutes, applicable rules and regulations, the mental health division will provide the regional support network written notice of the deficiencies. In order to maintain certification, the regional support network must develop a plan of corrective action approved by the mental health division.

(3) If the regional support network fails to develop an approved plan of corrective action or does not complete implementation of the plan within the time frames specified, the mental health division may initiate procedures to suspend, revoke, limit, or restrict certification consistent with the provisions of RCW 71.24.035 (7) through (11) and of 43.20A.-205. The mental health division sends a written decision to revoke, suspend, or modify the former certification, with the reasons for the decision and informing the regional support network of its right to an administrative hearing.

(4) The mental health division may suspend or revoke the certification of a regional support network immediately if the mental health division determines that deficiencies imminently jeopardize the health and safety of consumers.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0210, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0215 Consumer eligibility and payment for services. (1) Within available resources as defined in RCW 71.24.025(2), the regional support network must serve consumers in the following order of priority as defined in RCW 71.24.035 (5)(b):

(a) Acutely mentally ill persons;

(b) Chronically mentally ill adults and severely emotionally disturbed children;

(c) Seriously disturbed persons.

(2) Consumers eligible for the Title XIX medicaid program are entitled to receive covered medically necessary services from a mental health prepaid health plan without charge to the consumer;

(3) The consumer or the parent(s) of a child who has not reached their eighteenth birthday, the legal guardian, or the estate of the consumer is responsible for payment for services provided. The consumer may apply to the following entities for payment assistance:

(a) DSHS for medical assistance;

(b) The community support provider for payment responsibility based on a sliding fee scale; or

(c) The regional support network for authorization of payment for involuntary evaluation and treatment services for consumers who would experience a substantial hardship as defined in WAC 388-865-0150.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0215, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0217 Psychiatric indigent inpatient program. (1) The psychiatric indigent inpatient (PII) program is a state funded, limited casualty (LCP) program specifically for mental health clients identified in need of inpatient psychiatric care by the regional support network (RSN).

(2) The psychiatric indigent inpatient (PII) program pays only for emergent voluntary inpatient psychiatric care in community hospitals within the state of Washington. Psychiatric indigent inpatient (PII) does not cover ancillary charges for physician, transportation, pharmacy or other costs associated with an inpatient psychiatric hospitalization.

(3) To be eligible for the psychiatric indigent inpatient (PII) program, a client is subject to the following conditions and limitations:

(a) The client must have a voluntary inpatient psychiatric admission authorized by a regional support network (RSN) in the month of application or within the three months immediately preceding the month of application.

(b) Consumers applying for the psychiatric indigent inpatient (PII) program are subject to the income and resource rules for TANF and TANF-related clients in chapters 388-450 and 388-470 WAC.

(c) If a client's income and/or resources exceed the standard for medically needy (MN), as described in WAC 388-478-0070, the client must spend down the excess amount as described in WAC 388-519-0110 for the client to be eligible for the psychiatric indigent inpatient (PII) program. Spenddown is a client financial obligation for medical expenses. The department deducts the spenddown from payments to providers (see WAC 388-502-0100).

(d) A client who is voluntarily admitted must have incurred an emergency medical expense requirement (EMER) of two thousand dollars over a twelve-month period. EMER is a client financial obligation. The department deducts the EMER from payments to providers (see WAC 388-502-0100).

(i) Qualifying emergency medical expense requirement (EMER) expenses are psychiatric inpatient services in a community hospital.

(ii) The emergency medical expense requirement (EMER) period lasts for twelve calendar months, beginning on the first day of the month of certification for psychiatric indigent inpatient (PII) and continuing through the last day of the twelfth month.

(e) A client is limited to a single three-month period of psychiatric indigent inpatient (PII) eligibility per twelve-month emergency medical expense requirement (EMER) period.

(4) Clients are not eligible for the psychiatric indigent inpatient (PII) program if they:

(a) Are eligible for, or receiving, any other cash or medical program; or

(b) Entered Washington state specifically to obtain medical care; or

(c) Are inmates of a federal or state prison; or

(d) Are committed under the Involuntary Treatment Act (ITA).

[Statutory Authority: RCW 71.05.560, 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530. 06-13-042, § 388-865-0217, filed 6/15/06, effective 7/16/06. Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.800, and 2003 1st sp.s. c 25. 03-24-030, § 388-865-0217, filed 11/24/03, effective 12/25/03.]

WAC 388-865-0220 Standards for administration. The regional support network must demonstrate that it meets the requirements of chapters 71.05, 71.24, and 71.34 RCW, and ensures the effectiveness and cost effectiveness of community mental health services in an age and culturally competent manner. The regional support network must:

(1) Establish a governing board that includes, where applicable, representation from tribal authorities, consistent with RCW 71.24.300;

(2) For multicounty regional support networks, function as described in the regional support network joint operating agreement;

(3) Ensure the protection of consumer and family rights as described in this chapter, and chapters 71.05 and 71.34 RCW; and other applicable statutes for consumers involved in multiservice systems;

(4) Collaborate with and make reasonable efforts to obtain and use resources in the community to maximize services to consumers;

(5) Educate the community regarding mental illness to diminish stigma;

(6) Maintain agreement(s) with sufficient numbers of certified involuntary inpatient evaluation and treatment facilities to ensure that persons eligible for regional support network services have access to inpatient care;

(7) Develop publicized forums in which to seek and include input about service needs and priorities from community stakeholders, including:

(a) Consumers;

(b) Family members and consumer advocates;

(c) Culturally diverse communities including consumers who have limited English proficiency;

(d) Service providers;

(e) Social service agencies;

(f) Organizations representing persons with a disability;

(g) Tribal authorities; and

(h) Underserved groups.

(8) Maintain job descriptions for regional support staff with qualifications for each position with the education, experience, or skills relevant to job requirements; and

(9) Provide orientation and ongoing training to regional support network staff in the skills pertinent to the position and the treatment population, including age and culturally competent consultation with consumers, families, and community members.

(10) Identify trends and address service gaps;

(11) The regional support network must provide an updated two-year plan biennially to the mental health division for approval consistent with the provisions of RCW 71.24.300(1). The biennial plan must be submitted to the regional support network governing board for approval and to the advisory board for review and comment.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0220, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0221 Public awareness of mental health services. The regional support network or its designee must provide public information on the availability of mental health services. The regional support network must:

(1) Maintain listings of services in telephone directories and other public places such as libraries, community services offices, juvenile justice facilities, of the service area. The

regional support network or its designee must prominently display listings for crisis services in telephone directories;

(2) Publish and disseminate brochures and other materials or methods for describing services and hours of operation that are appropriate for all individuals, including those who may be visually impaired, limited English proficient, or unable to read;

(3) Post and make information available to consumers regarding the ombuds service consistent with WAC 388-865-0250, and local advocacy organizations that may assist consumers in understanding their rights.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0221, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0222 Advisory board. The regional support network must promote active engagement with persons with mental disorders, their families and services providers by soliciting and using their input to improve its services. The regional support network must appoint an advisory board that:

(1) Is broadly representative of the demographic character of the region and the ethnicity and broader cultural aspects of consumers served;

(2) Is composed of at least fifty-one percent:

(a) Current consumers or past consumers of public mental health services, including those who are youths, older adults, or who have a disability; and

(b) Family, foster family members, or care givers of consumers, including parents of emotionally disturbed children.

(3) Independently reviews and provides comments to the regional support network governing board on plans, budgets, and policies developed by the regional support network to implement the requirements of this section, chapters 71.05, 71.24, 71.34 RCW and applicable federal law and regulations.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0222, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0225 Resource management. The regional support network must establish mechanisms which maximize access to and use of age and culturally competent mental health services, and ensure eligible consumers receive appropriate levels of care. The regional support network must:

(1) Authorize admission, transfers and discharges for eligible consumers into and out of the following services:

(a) Community support services;

(b) Residential services; and

(c) Inpatient evaluation and treatment services.

(2) Ensure that services are provided according to the consumer's individualized service plan;

(3) Not require preauthorization of emergency services and transportation for emergency services that are required by an eligible consumer;

(4) Identify in the agreement with the mental health division any of these duties it has delegated to a subcontractor.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0225, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0229 Inpatient services. The regional support network must develop and implement age and culturally competent services that are consistent with chapters 71.24, 71.05, and 71.34 RCW. The regional support network must:

(1) For voluntary inpatient services: Develop and implement formal agreements with inpatient services funded by the regional support network regarding:

(a) Referrals;

(b) Admissions; and

(c) Discharges.

(2) For involuntary evaluation and treatment services:

(a) Maintain agreements with sufficient numbers of certified involuntary evaluation and treatment facilities to ensure that consumers eligible for regional support network services have access to involuntary inpatient care. The agreements must address regional support network responsibility for discharge planning;

(b) Determine which service providers on whose behalf the regional support network will apply on behalf of for certification by the mental health division;

(c) Ensure that all service providers or its subcontractors that provide evaluation and treatment services are currently certified by the mental health division and licensed by the department of health;

(d) Ensure periodic reviews of the evaluation and treatment service facilities consistent with regional support network procedures and notify the appropriate authorities if it believes that a facility is not in compliance with applicable statutes, rules and regulations.

(3) Authorize admissions, transfers and discharges into and out of inpatient evaluation and treatment services for eligible consumers including:

(a) State psychiatric hospitals:

(i) Western state hospital;

(ii) Eastern state hospital;

(iii) Child study and treatment center.

(b) Community hospitals;

(c) Residential inpatient evaluation and treatment facilities licensed by the department of health as adult residential rehabilitation centers; and

(d) Children's long-term inpatient program.

(4) Receive prior approval from the mental health division in the form of a single bed certification for services to be provided to consumers on a ninety- or one hundred eighty-day community inpatient involuntary commitment order consistent with the exception criteria in WAC 388-865-0502; and

(5) Identify in the agreement with the mental health division any of these duties is has delegated to a subcontractor.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0229, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0230 Community support services. The regional support network must develop and coordinate age and culturally competent community support services that are consistent with chapters 71.24, 71.05, and 71.34 RCW:

(1) Provide the following services directly, or contract with sufficient numbers and variety of licensed and/or certi-

fied service providers to ensure that persons eligible for regional support network services have access to at least the following services:

(a) Emergency crisis intervention services;

(b) Case management services;

(c) Psychiatric treatment including medication supervision;

(d) Counseling and psychotherapy services;

(e) Day treatment services as defined in RCW 71.24.300(5) and 71.24.035(7);

(f) Consumer employment services as defined in RCW 71.24.035 (5)(e); and

(g) Peer support services.

(2) Conduct prescreening determinations for providing community support services for persons with mental illness who are being considered for placement in nursing homes (RCW 71.24.025(7) and 71.24.025(9)); and

(3) Complete screening for persons with mental illness who are being considered for admission to residential services funded by the regional support network (RCW 71.24.025 and 71.24.025(9)).

[Statutory Authority: RCW 71.24.035 (5)(c), 71.24.037. 05-17-156, § 388-865-0230, filed 8/22/05, effective 9/22/05. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0230, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0235 Residential and housing services. The regional support network must ensure:

(1) Active promotion of consumer access to, and choice in, safe and affordable independent housing that is appropriate to the consumer's age, culture, and residential needs.

(2) Provision of services to families of eligible children and to eligible consumers who are homeless or at imminent risk of becoming homeless as defined in Public Law 100-77, through outreach, engagement and coordination or linkage of services with shelter and housing.

(3) The availability of community support services, with an emphasis supporting consumers in their own home or where they live in the community, with residences and residential supports prescribed in the consumer's treatment plan. This includes a full range of residential services as required in RCW 71.24.025 (7) and (14); and 71.24.025(14).

(4) That eligible consumers in residential facilities receive mental health services consistent with their individual service plan, and are advised of their rights, including long-term care rights (chapter 70.129 RCW).

(5) If supervised residential services are needed they are provided only in licensed facilities:

(a) An adult family home that is licensed under chapter 388-76 WAC.

(b) A boarding home facility that is licensed under chapter 388-78A WAC.

(c) An adult residential rehabilitative center facility that is licensed under chapter 246-325 WAC.

(6) The active search of comprehensive resources to meet the housing needs of consumers.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0235, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0240 Consumer employment services. The regional support network must coordinate with rehabilitation and employment services to assure that consumers wanting to work are provided with employment services consistent with WAC 388-865-0464.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0240, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0245 Administration of the Involuntary Treatment Act. The regional support network must establish policies and procedures for administration of the involuntary treatment program, including investigation, detention, transportation, court-related, and other services required by chapters 71.05 and 71.34 RCW. This includes:

(1) Designating mental health professionals to perform the duties of involuntary investigation and detention in accordance with the requirements of chapters 71.05 and 71.34 RCW.

(2) Documenting consumer compliance with the conditions of less restrictive alternative court orders by:

(a) Ensuring periodic evaluation of each committed consumer for release from or continuation of an involuntary treatment order. Evaluations must be recorded in the clinical record, and must occur at least monthly for ninety and one hundred eighty-day commitments.

(b) Notifying the designated mental health professional if noncompliance with the less restrictive order impairs the individual sufficiently to warrant detention or evaluation for detention and petitioning for revocation of the less restrictive alternative court order.

(3) Ensuring that when a peace officer or designated mental health professional escorts a consumer to a facility, the designated mental health professional must take reasonable precautions to safeguard the consumer's property including:

(a) Safeguarding the consumer's property in the immediate vicinity of the point of apprehension;

(b) Safeguarding belongings not in the immediate vicinity if there may be possible danger to those belongings;

(c) Taking reasonable precautions to lock and otherwise secure the consumer's home or other property as soon as possible after the consumer's initial detention.

(4) Ensuring that the requirements of RCW 71.05.700 through 71.05.715 are met.

[Statutory Authority: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035. 09-19-012, § 388-865-0245, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0245, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0245, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0250 Ombuds services. The regional support network must provide unencumbered access to and maintain the independence of the ombuds service as set forth in this section and in the agreement between mental health division and the regional support network. The mental health division and the regional support network must include representatives of consumer and family advocate organizations when revising the terms of the agreement regarding the requirements of this section. Ombuds members must be cur-

rent consumers of the mental health system, past consumers or family members. The regional support network must maintain an ombuds service that:

(1) Is responsive to the age and demographic character of the region and assists and advocates for consumers with resolving complaints and grievances at the lowest possible level;

(2) Is independent of service providers;

(3) Receives and investigates consumer, family member, and other interested party complaints and grievances;

(4) Is accessible to consumers, including a toll-free, independent phone line for access;

(5) Is able to access service sites and records relating to the consumer with appropriate releases so that it can reach out to consumers, and resolve complaints and/or grievances;

(6) Receives training and adheres to confidentiality consistent with this chapter and chapters 71.05, 71.24, and 70.02 RCW;

(7) Continues to be available to investigate, advocate and assist the consumer through the grievance and administrative hearing processes;

(8) Involves other persons, at the consumer's request;

(9) Assists consumers in the pursuit of formal resolution of complaints;

(10) If necessary, continues to assist the consumer through the fair hearing processes;

(11) Coordinates and collaborates with allied systems' advocacy and ombuds services to improve the effectiveness of advocacy and to reduce duplication of effort for shared clients;

(12) Provides information on grievance experience to the regional support network and mental health division quality management process; and

(13) Provides reports and formalized recommendations at least biennially to the mental health division and regional support network advisory and governing boards, quality review team, local consumer and family advocacy groups, and provider network.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0250, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0255 Consumer grievance process. The regional support network must develop a process for reviewing consumer complaints and grievances. A complaint is defined as a verbal statement of dissatisfaction with some aspect of mental health services. A grievance is a written request that a complaint be heard and adjudicated, usually undertaken after attempted resolution of a complaint fails. The process must be submitted to the mental health division for written approval and incorporation into the agreement between the regional support network and the mental health division. The process must:

(1) Be age, culturally and linguistically competent;

(2) Ensure acknowledgment of receipt of the grievance the following working day. This acknowledgment may be by telephone, with written acknowledgment mailed within five working days;

(3) Ensure that grievances are investigated and resolved within thirty days. This time frame can be extended by mutual written agreement, not to exceed ninety days;

(4) Be published and made available to all current or potential users of publicly funded mental health services and advocates in language that is clear and understandable to the individual;

(5) Encourage resolution of complaints at the lowest level possible;

(6) Include a formal process for dispute resolution;

(7) Include referral of the consumer to the ombuds service for assistance at all levels of the grievance and fair hearing processes;

(8) Allow the participation of other people, at the grievant's choice;

(9) Ensure that the consumer is mailed a written response within thirty days from the date a written grievance is received by the regional support network;

(10) Ensure that grievances are resolved even if the consumer is no longer receiving services;

(11) Continue to provide mental health services to the grievant during the grievance and fair hearing process;

(12) Ensure that full records of all grievances are kept for five years after the completion of the grievance process in confidential files separate from the grievant's clinical record. These records must not be disclosed without the consumer's written permission, except as necessary to resolve the grievance or to DSHS if a fair hearing is requested;

(13) Provide for follow-up by the regional support network to assure that there is no retaliation against consumers who have filed a grievance;

(14) Make information about grievances available to the regional support network;

(15) Inform consumers of their right to file an administrative hearing with DSHS without first accessing the contractor's grievance process. Consumers must utilize the regional support network grievance process prior to requesting disenrollment;

(16) Inform consumers of their right to use the DSHS prehearing and administrative hearing processes as described in chapter 388-02 WAC. Consumers have this right when:

(a) The consumer believes there has been a violation of DSHS rule;

(b) The regional support network did not provide a written response within thirty days from the date a written request was received;

(c) The regional support network, mental health prepaid health plan, the department of social and health services, or a provider denies services.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0255, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0260 Mental health professionals and specialists. The regional support network must assure sufficient numbers of mental health professionals and specialists are available in the service area to meet the needs of eligible consumers. The regional support network must:

(1) Document efforts to acquire the services of the required mental health professionals and specialists;

(2) Ensure development of a training program using in-service training or outside resources to assist service providers to acquire necessary skills and experience to serve the needs of the consumer population;

(3) If more than five hundred persons in the total population in the regional support network geographic area report in the U.S. census that they belong to racial/ethnic groups as defined in WAC 388-865-0150, the regional support network must contract or otherwise establish a working relationship with the required specialists to:

(a) Provide all or part of the treatment services for these populations; or

(b) Supervise or provide consultation to staff members providing treatment services to these populations.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0260, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0265 Mental health professional—Exception. The regional support network may request an exception of the requirements of a mental health professional for a person with less than a masters degree level of training. The mental health division may grant an exception of the minimum requirements on a time-limited basis and only with a demonstrated need for an exception under the following conditions:

(1) The regional support network has made a written request for an exception including:

(a) Demonstration of the need for an exception;

(b) The name of the person for whom an exception is being requested;

(c) The functions which the person will be performing;

(d) A statement from the regional support network that the person is qualified to perform the required functions based on verification of required education and training, including:

(i) Bachelor of arts or sciences degree from an accredited college or university;

(ii) Course work or training in making diagnoses, assessments, and developing treatment plans; and

(iii) Documentation of at least five years of direct treatment of persons with mental illness under the supervision of a mental health professional.

(2) The regional support network assures that periodic supervisory evaluations of the individual's job performance are conducted;

(3) The regional support network submits a plan of action to assure the individual will become qualified no later than two years from the date of exception. The regional support network may apply for renewal of the exception. The exception may not be transferred to another regional support network or to use for an individual other than the one named in the exception;

(4) If compliance with this rule causes a disproportionate economic impact on a small business as defined in the Regulatory Fairness Act, chapter 19.85 RCW, and the business does not contract with a regional support network, the small business may request the exception directly from the mental health division.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0265, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0270 Financial management. The regional support network must be able to demonstrate that it ensures the effectiveness and cost effectiveness of community mental health services. The regional support network must:

(1) Spend funds received by the mental health division in accordance with its contract and to meet the requirements of chapters 71.05, 71.24, 71.34 RCW, and the State Appropriations Act;

(2) Use accounting procedures that are consistent with applicable state and federal requirements and generally accepted accounting principles (GAAP), with the following additional requirements:

(a) Include as assets all property, equipment, vehicles, buildings, capital reserve funds, operating reserve funds, risk reserve funds, or self-insurance funds.

(b) Interest accrued on funds stated in this section must be accounted for and kept for use by the regional support network.

(c) Property, equipment, vehicles, and buildings must be properly inventoried with a physical inventory conducted at least every two years.

(d) Proceeds from the disposal of any assets must be retained by the regional support network for purposes of subsection (1) of this section.

(3) Comply with the 1974 county maintenance of effort requirement for administration of the Involuntary Treatment Act (chapter 71.05 RCW) and 1990 county maintenance of effort requirement for community programs for adults consistent with RCW 71.24.160, and in the case of children, no state funds shall replace local funds from any source used to finance administrative costs for involuntary commitment procedures conducted prior to January 1, 1985 (chapter 71.34 RCW);

(4) Maintain accounting procedures to ensure that accrued interest and excess reserve balances are returned to the regional support network for use in the public mental health system.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0270, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0275 Management information system. The regional support network must be able to demonstrate that it collects and manages information that shows the effectiveness and cost effectiveness of mental health services. The regional support network must:

(1) Operate an information system and ensure that information about consumers who receive publicly funded mental health services is reported to the state mental health information system according to mental health division guidelines.

(2) Ensure that the information reported is:

(a) Sufficient to produce accurate regional support network reports; and

(b) Adequate to locate case managers in the event that a consumer requires treatment by a service provider that would not normally have access to treatment information about the consumer.

(3) Ensure that information about consumers is shared or released between service providers only in compliance with state statutes (see chapters 70.02, 71.05, and 71.34 RCW) and this chapter. Information about consumers and their individualized crisis plans must:

(a) Be available twenty-four hours a day, seven days a week to designated mental health professionals and inpatient evaluation and treatment facilities, as consistent with confidentiality statutes;

(b) Be available to the state and regional support network staff as required for management information and program review; and

(c) Comply with the requirements of RCW 71.05.715.

(4) Maintain on file a statement signed by regional support network, county or service provider staff having access to the mental health information systems acknowledging that they understand the rules on confidentiality and will follow the rules.

(5) Take appropriate action if a subcontractor or regional support network employee willfully releases confidential information, as required by chapter 71.05 RCW.

[Statutory Authority: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035. 09-19-012, § 388-865-0275, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0275, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0275, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0280 Quality management process. The regional support network must implement a process for continuous quality improvement in the delivery of culturally competent mental health services. The regional support network must submit a quality management plan as part of the written biennial plan to the mental health division for approval. All changes to the quality management plan must be submitted to the mental health division for approval prior to implementation. The plan must include:

(1) Roles, structures, functions and interrelationships of all the elements of the quality management process, including but not limited to the regional support network governing board, clinical and management staff, advisory board, ombuds service, and quality review teams.

(2) Procedures to ensure that quality management activities are effectively and efficiently carried out with clear management and clinical accountability, including methods to:

(a) Collect, analyze and display information regarding:

(i) The capacity to manage resources and services, including financial and cost information and compliance with statutes, regulations and agreements;

(ii) System performance indicators;

(iii) Quality and intensity of services;

(iv) Incorporation of feedback from consumers, allied service systems, community providers, ombuds and quality review team;

(v) Clinical care and service utilization including consumer outcome measures; and

(vi) Recommendations and strategies for system and clinical care improvements, including information from exit interviews of consumers and practitioners.

(b) Monitor management information system data integrity;

(c) Monitor complaints, grievances and adverse incidents for adults and children;

(d) Monitor contracts with contractors and to notify the mental health division of observations and information indicating that providers may not be in compliance with licensing or certification requirements;

(e) Immediately investigate and report allegations of fraud and abuse of the contractor or subcontractor to the mental health division;

(f) Monitor delegated administrative activities;

(g) Identify necessary improvements;

(h) Interpret and communicate practice guidelines to practitioners;

(i) Implement change;

(j) Evaluate and report results;

(k) Demonstrate use of all corrective actions to improve the system;

(l) Consider system improvements based on recommendations from all on-site monitoring, evaluation and accreditation/certification reviews;

(m) Review update, and make the plan available to community stakeholders.

(3) Targeted improvement activities, including:

(a) Performance measures that are objective, measurable, and based on current knowledge/best practice including at least those defined by the mental health division in the agreement with the regional support network;

(b) An analysis of consumer care covering a representative sample of at least ten percent of consumers or five hundred consumers, whichever is smaller;

(c) Efficient use of human resources; and

(d) Efficient business practices.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0280, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0282 Quality review teams. The regional support network must establish and maintain unencumbered access to and maintain the independence of a quality review team as set forth in this section and in the agreement between mental health division and the regional support network. The quality review team must include current consumers of the mental health system, past consumers or family members. The regional support network must assure that quality review teams:

(1) Fairly and independently review the performance of the regional support network and service providers to evaluate systemic customer service issues as measured by objective indicators of consumer outcomes in rehabilitation, recovery and reintegration into the mainstream of social, employment and educational choices, including:

(a) Quality of care;

(b) The degree to which services are consumer-focused/directed and are age and culturally competent;

(c) The availability of alternatives to hospitalization, cross-system coordination and range of treatment options; and

(d) The adequacy of the regional support network's cross system linkages including, but not limited to schools, state and local hospitals, jails and shelters.

(2) Have the authority to enter and monitor any agency providing services for area regional support network consumers, including state and community hospitals, freestanding evaluation and treatment facilities, and community support service providers;

(3) Meet with interested consumers and family members, allied service providers, including state or community psychiatric hospitals, regional support network contracted service providers, and persons that represent the age and ethnic diversity of the regional support network to:

(a) Determine if services are accessible and address the needs of consumers based on sampled individual recipient's perception of services using a standard interview protocol developed by the mental health division. The protocol will query the sampled individuals regarding ease of accessing services, the degree to which services address medically necessary needs (acceptability), and the benefit of the service received; and

(b) Work with interested consumers, service providers, the regional support network, and DSHS to resolve identified problems.

(4) Provide reports and formalized recommendations at least biennially to the mental health division, the mental health advisory committee and the regional support network advisory and governing boards and ensure that input from the quality review team is integrated into the overall regional support network quality management process, ombuds services, local consumer and family advocacy groups, and provider network; and

(5) Receive training and adhere to confidentiality standards.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0282, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0284 Standards for contractors and subcontractors. The regional support network must not subcontract for clinical services to be provided using state funds unless the subcontractor is licensed and/or certified by the mental health division for those services or is personally licensed by the department of health as defined in chapter 48.43, 18.57, 18.71, 18.83, or 18.79 RCW. The regional support network must:

(1) Require and maintain documentation that contractors and subcontractors are licensed, certified, or registered in accordance with state or federal laws;

(2) Follow applicable requirements of the regional support network agreement with the mental health division;

(3) Demonstrate that it monitors contracts with contractors and notifies the mental health division of observations and information indicating that providers may not be in compliance with licensing or certification requirements; and

(4) Terminate its contract with a provider if the mental health division notifies the regional support network of a provider's failure to attain or maintain licensure or certification, if applicable.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0284, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0286 Coordination with a mental health prepaid health plan. If the regional support network is not also a mental health prepaid health plan, the regional support network must ensure continuity of services between itself and the mental health prepaid health plan by maintaining a working agreement about coordination for at least the following services:

(1) Community support services;

(2) Inpatient evaluation and treatment services;

(3) Residential services;

(4) Transportation services;

(5) Consumer employment services;

(6) Administration of involuntary treatment investigation and detention services; and

(7) Immediate crisis response after presidential declaration of a disaster.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0286, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0288 Regional support networks as a service provider. A regional support network may operate as a community support service provider under the following circumstances:

(1) Meeting the criteria specified in RCW 71.24.037 and 71.24.045;

(2) Maintaining a current license as a community support service provider from the mental health division.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0288, filed 5/31/01, effective 7/1/01.]

SECTION THREE—MENTAL HEALTH PREPAID HEALTH PLANS

WAC 388-865-0300 Mental health prepaid health plans. A mental health prepaid health plan is an entity that contracts with the mental health division to administer mental health services for people who are eligible for the Title XIX medicaid program. The mental health prepaid health plan must ensure services are responsive in an age and culturally competent manner to the mental health needs of its community. To be eligible for a contract as a mental health prepaid health plan, the entity must:

(1) Provide documentation of a population base of forty-one thousand six hundred medicaid eligible persons (covered lives) within the service area or receive approval from the mental health division based on submittal of an actuarially sound risk management profile;

(2) Maintain certification as a regional support network or licensure by the Washington state office of the insurance commissioner as a health care service contractor under chapter 48.44 RCW.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0300, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0305 Regional support network contracting as a mental health prepaid health plan. A regional support network contracting with the mental health division as a mental health prepaid health plan must comply with all requirements for a regional support network and the additional requirements for a prepaid health plan.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0305, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0310 Mental health prepaid health plans—Minimum standards. To be eligible for a contract, a mental health prepaid health plan must comply with all applicable federal, state, and local statutes and regulations and meet all of the minimum standards of WAC 388-865-300 through 388-865-355. The mental health prepaid health plan must:

(1) Provide medically necessary mental health services that are age and culturally competent for all medicaid recipients in the service area within a capitated rate;

(2) Provide outreach to consumers, including homeless persons and families as defined in Public Law 100-77, and home-bound individuals;

(3) Demonstrate working partnerships with tribal authorities for the delivery of services that blend with tribal values, beliefs and culture;

(4) Develop and maintain written subcontracts that clearly recognize that legal responsibility for administration of the service delivery system remains with the mental health prepaid health plan, as identified in the agreement with the mental health division;

(5) Retain responsibility to ensure that applicable standards of state and federal statute and regulations and this chapter are met even when it delegates duties to subcontractors;

(6) Ensure the protection of consumer and family rights as described in chapters 71.05 and 71.34 RCW;

(7) Ensure compliance with the following standards:

(a) WAC 388-865-0220, Standards for administration;

(b) WAC 388-865-0225, Resource management program;

(c) WAC 388-865-0229, Inpatient services and treatment services;

(d) WAC 388-865-0230, Community support services;

(e) WAC 388-865-0250, Ombuds services;

(f) WAC 388-865-0255, Consumer grievance process;

(g) WAC 388-865-0260, Mental health professionals or specialists;

(h) WAC 388-865-0265, Mental health professional—Exception;

(i) WAC 388-865-0270, Financial management;

(j) WAC 388-865-0275, Management information system;

(k) WAC 388-865-0280, Quality management process;

(l) WAC 388-865-0282, Quality review teams; and

(m) WAC 388-865-0284, Standards for contractors and subcontractors.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0310, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0315 Governing body. The mental health prepaid health plan must establish a governing body responsible for oversight of the mental health prepaid health plan. The governing body must:

(1) Be free from conflict of interest and all appearance of conflict of interest between personal, professional and fiduciary interests of a governing body member and the best interests of the prepaid health plan and the consumers it serves.

(2) Have rules about:

(a) When a conflict of interest becomes evident;

(b) Not voting or joining a discussion when a conflict of interest is present; and

(c) When the body scan assign the matter to others, such as staff or advisory bodies.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0315, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0320 Utilization management. Utilization management is the way the mental health prepaid health plan authorizes or denies mental health services, monitors services, and follows the level of care guidelines. To demonstrate the impact on enrollee access to care of adequate quality, a mental health prepaid health plan must provide utilization management of the community mental health rehabilitation services (42 C.F.R. 440) that is independent of service providers. This process must:

(1) Provide effective and efficient management of resources;

(2) Assure capacity sufficient to deliver appropriate quality and intensity of services to enrolled consumers without a wait list consistent with the agreement with the mental health division;

(3) Plan, coordinate, and authorize community support services;

(4) Ensure that services are provided according to the individual service plan;

(5) Ensure assessment and monitoring processes are in place by which service delivery capacity responds to changing needs of the community and enrolled consumers;

(6) Develop, implement, and enforce written level of care guidelines for admission, placements, transfers and discharges into and out of services. The guidelines must address:

(a) A clear process for the mental health prepaid health plan's role in the decision-making process about admission and continuing stay at various levels is available in language that is clearly understood by all parties involved in an individual consumer's care, including laypersons;

(b) Criteria for admission into various levels of care, including community support, inpatient and residential services that are clear and concrete;

(c) Methods to ensure that services are individualized to meet the needs for all medicaid consumers served, including consumers of different ages, cultures, languages, civil commitment status, physical abilities, and unique service needs; and

(d) To the extent authorization of care at any level of care or at continuing stay determinations is delegated, the mental health prepaid health plan retains a sufficiently strong and regular oversight role to assure those decisions are being made appropriately.

(7) Collect data that measures the effectiveness of the criteria in ensuring that all eligible people get services that are appropriate to his/her needs;

(8) Report to the mental health division any knowledge it gains that the mental health prepaid health plan or service provider is not in compliance with all state and federal laws and regulations.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0320, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0325 Risk management. The mental health prepaid health plan must:

(1) Assume the financial risk of providing community mental health outpatient rehabilitation services, community hospital services and operation of a capitated mental health managed care system for the medicaid eligible persons in the service area;

(2) Maintain a risk reserve of annual premium payments as defined by chapter 48.44 RCW or the actuarial analysis submitted with the formal request for waiver for mental health approved by the Health Care Financing Administration. All other mental health reserves and undesignated fund balances shall be limited to no more than ten percent of annual revenues supporting the prepaid health plan's mental health program;

(3) Demonstrate solvency and manage all fiscal matters within the managed care system, including:

(a) Current pro forma;

(b) Financial reports;

(c) Balance sheets;

(d) Revenue and expenditure; and

(e) An analysis of reserve account(s) and fund balance(s) information including a detailed composition of capital, operating, and risk reserves and or fund balances.

(4) Maintain policies for each reserve account and have a process for collecting and disbursing reserves to pay for costs incurred by the mental health prepaid health plan;

(5) Demonstrate capacity to process claims for members of the contracted provider network and any emergency service providers accessed by consumers while out of the mental health prepaid health plan service area within sixty days using methods consistent with generally accepted accounting practices;

(6) Comply with the requirements of section 1128 (b) of the Social Security Act, which prohibits making payments directly or indirectly to physicians or other providers as an inducement to reduce or limit services provided to consumers;

(7) In accordance with the medicaid section 1915b waiver, the mental health prepaid health plan is required to pay for psychiatric inpatient services in community hospitals either through a direct contract with community hospitals or through an agreement with the department. In the event that the mental health prepaid health plan chooses to use the department as its fiscal agent, the plan agrees to abide by all policies, rules, payment requirements, and levels promulgated by the medical assistance administration. If the plan chooses to direct contract, the plan is responsible for executing contracts for sufficient hospital capacity pursuant to a plan approved by the mental health division.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0325, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0330 Marketing/education of mental health services. The mental health prepaid health plan must demonstrate that it provides information to eligible persons so that they are aware of available mental health services and how to access them. The mental health prepaid health plan must:

(1) Develop and submit marketing/education plan(s) and procedures to the mental health division within the time frames in the agreement with the mental health division for approval prior to issuance. The plan shall, at a minimum, include information on the following:

(a) Consumer rights and responsibilities;

(b) The service recipient's right to disenroll;

(c) Cross-system linkages;

(d) Access to mental health services for diverse populations, including other languages than English;

(e) Use of media;

(f) Stigma reduction;

(g) Subcontractor participation/involvement;

(h) Plan for evaluation of marketing strategy;

(i) Procedures and materials, and any revisions thereof; and

(j) Maintain listings of mental health services with toll-free numbers in the telephone and other public directories of the service area.

(2) Describe services and hours of operations through brochures and other materials and other methods of advertising;

(3) Assure that the materials and methods are effective in reaching people who may be visually impaired, have limited comprehension of written or spoken English, or who are unable to read. At a minimum, all written materials generally available to service recipients shall be translated to the most commonly used languages in the service area;

(4) Post and otherwise make information available to consumers about ombuds services and local advocacy organizations that may assist consumers in understanding their rights;

(5) Ensure distribution of written educational material(s) to consumers, allied systems and local community resources including:

(a) Annual brochure(s) containing educational material on major mental illnesses and the range of options for treatment, supports available in the system, including medication and formal psychotherapies, as well as alternative approaches that may be appropriate to age, culture and preference of the service recipient;

(b) Information regarding the scope of available benefits (e.g., inpatient, outpatient, residential, employment, community support);

(c) Service locations, crisis response services; and

(d) Service recipients' responsibilities with respect to out-of-area emergency services; unauthorized care; noncovered services; complaint process, grievance procedures; and other information necessary to assist in gaining access.

(6) Ensure marketing plans, procedures and materials are accurate and do not mislead, confuse or defraud the service recipient.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0330, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0335 Consumer enrollment. (1) DSHS enrolls a medicaid recipient in a mental health prepaid inpa-

tient health plan when the person resides in the contracted service area of the prepaid inpatient health plan. The assigned prepaid inpatient health plan is responsible to provide outpatient medically necessary state medicaid plan approved services to medicaid service recipients in the contracted service area and to assure inpatient medically necessary state medicaid plan approved services are received;

(2) An enrolled medicaid service recipient who requests or receives medically necessary nonemergency community mental health rehabilitation services may request and receive such service from the assigned mental health prepaid inpatient health plan through authorized providers only;

(3) An enrolled medicaid service recipient is automatically transferred from the assigned prepaid inpatient health plan when the recipient moves from the contracted service area of one mental health prepaid inpatient health plan to the contracted service area of another;

(4) Services to medicaid recipients may be provided through alternative means if currently contracted authorized providers are not able to provide those services when:

(a) The services are state medicaid plan approved services and are medically necessary for the medicaid service recipient; and

(b) Services are or should be available to other medicaid service recipients in the local mental health prepaid inpatient health plan; and

(c) The medicaid service recipient has made reasonable attempts to utilize services through authorized providers; or

(d) The medicaid service recipient has received a choice of providers and has made an informed decision to request medically necessary services through a provider outside the prepaid inpatient health plan provider network that has cultural or linguistic expertise or both needed to meet medical necessity that are not sufficient within the provider network; or

(e) The medicaid service recipient has utilized the prepaid inpatient health plan grievance or appeal process and the state administrative hearing process, and a decision has been made in favor of the medicaid service recipient that medicaid plan approved services continue to be medically necessary.

[Statutory Authority: RCW 71.24.035. 05-17-154, § 388-865-0335, filed 8/22/05, effective 9/22/05. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0335, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0345 Choice of primary care provider. The mental health prepaid health plan must ensure that each consumer who is receiving nonemergency community mental health rehabilitation services has a primary care provider who is responsible to carry out the individualized service plan. The mental health prepaid health plan must allow consumers, parents of consumers under the age of thirteen, and guardians of consumers of all ages to select a primary care provider from the available primary care provider staff within the mental health prepaid health plan.

(1) For an enrolled client with an assigned case manager, the case manager is the primary care provider;

(2) If the consumer does not make a choice, the mental health prepaid health plan or its designee must assign a primary care provider no later than fifteen working days after the consumer requests services;

(3) The mental health prepaid health plan or its designee must allow a consumer to change primary care providers in the first ninety days of enrollment with the mental health prepaid health plan and once during a twelve-month period for any reason;

(4) Any additional change of primary care provider during the twelve-month period may be made with documented justification at the consumer's request by:

(a) Notifying the mental health prepaid health plan (or its designee) of his/her request for a change, and the name of the new primary care provider; and

(b) Identifying the reason for the desired change.

(5) A consumer whose request to change primary care providers is denied may submit a grievance with the plan, or request an administrative hearing.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0345, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0350 Mental health screening for children. The mental health prepaid health plan is responsible for conducting mental health screening and treatment for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment (EPSDT) program. This includes:

(1) Providing resource management services for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program as specified in contract with the mental health division;

(2) Developing and maintaining an oversight committee for the coordination of the early and periodic screening, diagnosis and treatment program. The oversight committee must include representation from parents of medicaid-eligible children.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0350, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0355 Consumer request for a second opinion. An enrolled consumer in a mental health prepaid health plan must have the right to a second opinion by another participating staff in the enrolled consumer's assigned mental health prepaid health plan:

(1) When the enrolled consumer needs more information about the medical necessity of the treatment recommended by the mental health prepaid health plan; or

(2) If the enrolled consumer believes the mental health prepaid health plan primary care provider is not authorizing medically necessary community mental health rehabilitation services.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0355, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0360 Monitoring of mental health prepaid health plans. The mental health division will conduct an annual on-site medical audit and an administrative audit at least every two years for purposes of assessing the quality of care and conformance with the minimum standards of this section and the Title XIX medicaid 1915(b) mental

health waiver requirements. The monitoring will include a review of:

(1) The mental health prepaid health plan's conformance to monitoring its service provider network in accordance with the quality management plan approved by the mental health division that includes processes established under the medicaid waiver for mental health services;

(2) Any direct services provided by the mental health prepaid health plan;

(3) Other provisions within the code of federal regulations for managed care entities, which may include access, quality of care, marketing, record keeping, utilization management and disenrollment functions.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0360, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0363 Coordination with the regional support network. If the mental health prepaid health plan is not also a regional support network, the mental health prepaid health plan must ensure continuity of services between itself and the regional support network by maintaining a working agreement about coordination for at least the following services:

(1) Residential services;

(2) Transportation services;

(3) Consumer employment services;

(4) Administration of involuntary treatment investigation and detention services; and

(5) Immediate crisis response after presidential declaration of a disaster.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0363, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0365 Suspension, revocation, limitation or restriction of a contract. The mental health division may suspend, revoke, limit or restrict a mental health prepaid health plan contract or refuse to grant a contract for failure to conform to applicable state and federal rules and regulations or for violation of health or safety considerations.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0365, filed 5/31/01, effective 7/1/01.]

SECTION FOUR—COMMUNITY SUPPORT SERVICE PROVIDERS

WAC 388-865-0400 Community support service providers. The mental health division licenses and certifies community support service providers. To gain and maintain licensure or certification, a provider must meet applicable local, state and federal statutes and regulations as well as the requirements of WAC 388-865-400 [388-865-0400] through 388-865-450 [388-865-0450] as applicable to services offered. The license or certificate lists service components the provider is authorized to provide to publicly funded consumers and must be prominently posted in the provider reception area. In addition, the provider must meet minimum standards of the specific service components for which licensure is being sought:

(1) Emergency crisis intervention services;

(2) Case management services;

(3) Psychiatric treatment, including medication supervision;

(4) Counseling and psychotherapy services;

(5) Day treatment services;

(6) Consumer employment services; and/or

(7) Peer support services.

[Statutory Authority: RCW 71.24.035 (5)(c), 71.24.037. 05-17-156, § 388-865-0400, filed 8/22/05, effective 9/22/05. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0400, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0405 Competency requirements for staff. The licensed service provider must ensure that staff are qualified for the position they hold and have the education, experience, or skills to perform the job requirements. The provider must maintain documentation that:

(1) All staff have a current Washington state department of health license or certificate or registration as may be required for their position;

(2) Washington state patrol background checks are conducted for employees in contact with consumers consistent with RCW 43.43.830;

(3) Mental health services are provided by a mental health professional, or under the clinical supervision of a mental health professional;

(4) Staff performing mental health services (not including crisis telephone) must have access to consultation with a psychiatrist or a physician with at least one year's experience in the direct treatment of persons who have a mental or emotional disorder;

(5) Mental health services to children, older adults, ethnic minorities or persons with disabilities must be provided by, under the supervision of, or with consultation from the appropriate mental health specialist(s) when the consumer:

(a) Is a child as defined in WAC 388-865-0150;

(b) Is or becomes an older person as defined in WAC 388-865-0150;

(c) Is a member of a racial/ethnic group as defined in WAC 388-865-0105 and as reported:

(i) In the consumer's demographic data; or

(ii) By the consumer or others who provide active support to the consumer; or

(iii) Through other means.

(d) Is disabled as defined in WAC 388-865-0150 and as reported:

(i) In the consumer's demographic data; or

(ii) By the consumer or others who provide active support to the consumer; or

(iii) Through other means.

(6) Staff receive regular supervision and an annual performance evaluation; and

(7) An individualized annual training plan must be implemented for each direct service staff person and supervisor, to include at a minimum:

(a) The skills he or she needs for his/her job description and the population served; and

(b) The requirements of RCW 71.05.720.

[Statutory Authority: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035. 09-19-012, § 388-865-0405, filed

9/3/09, effective 10/4/09. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0405, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0410 Consumer rights. (1) The provider must document that consumers, prospective consumers, or legally responsible others are informed of consumer rights at admission to community support services in a manner that is understandable to the individual. Consumer rights must be written in alternative format for consumers who are blind or deaf, and must also be translated to the most commonly used languages in the service area consistent with WAC 388-865-0260(3);

(2) The provider must post a written statement of consumer rights in public areas, with a copy available to consumers on request. Providers of telephone only services (e.g., crisis lines) must post the statement of consumer rights in a location visible to staff and volunteers during working hours;

(3) The provider must develop a statement of consumer rights that incorporates the following statement or a variation approved by the mental health division: "You have the right to:

(a) Be treated with respect, dignity and privacy;

(b) Develop a plan of care and services which meets your unique needs;

(c) The services of a certified language or sign language interpreter and written materials and alternate format to accommodate disability consistent with Title VI of the Civil Rights Act;

(d) Refuse any proposed treatment, consistent with the requirements in chapters 71.05 and 71.34 RCW;

(e) Receive care which does not discriminate against you, and is sensitive to your gender, race, national origin, language, age, disability, and sexual orientation;

(f) Be free of any sexual exploitation or harassment;

(g) Review your clinical record and be given an opportunity to make amendments or corrections;

(h) Receive an explanation of all medications prescribed, including expected effect and possible side effects;

(i) Confidentiality, as described in chapters 70.02, 71.05, and 71.34 RCW and regulations;

(j) All research concerning consumers whose cost of care is publicly funded must be done in accordance with all applicable laws, including DSHS rules on the protection of human research subjects as specified in chapter 388-04 WAC;

(k) Make an advance directive, stating your choices and preferences regarding your physical and mental health treatment if you are unable to make informed decisions;

(l) Appeal any denial, termination, suspension, or reduction of services and to continue to receive services at least until your appeal is heard by a fair hearing judge;

(m) If you are medicaid eligible, receive all services which are medically necessary to meet your care needs. In the event that there is a disagreement, you have the right to a second opinion from:

(i) A provider within the regional support network about what services are medically necessary; or

(ii) For consumers not enrolled in a prepaid health plan, a provider under contract with the mental health division.

(n) Lodge a complaint with the ombuds, regional support network, or provider if you believe your rights have been violated. If you lodge a complaint or grievance, you must be free of any act of retaliation. The ombuds may, at your request, assist you in filing a grievance. The ombuds' phone number is:_____;

(o) Ask for an administrative hearing if you believe that any rule in this chapter was incorrectly applied in your case."

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.380, and 74.08.090. 09-02-030, § 388-865-0410, filed 12/30/08, effective 1/30/09. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0410, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0415 Access to services. The community support service provider must document and otherwise ensure that eligible consumers have access to age and culturally competent services when and where those services are needed. The provider must:

(1) Identify and reduce barriers to people getting the services where and when they need them;

(2) Comply with the Americans with Disabilities Act and the Washington State Antidiscrimination Act, chapter 49.60 RCW;

(3) Assure that services are timely, appropriate and sensitive to the age, culture, language, gender and physical condition of the consumer;

(4) Provide alternative service delivery models to make services more available to underserved persons as defined in WAC 388-865-0150;

(5) Provide access to telecommunication devices or services and certified interpreters for deaf or hearing impaired consumers and limited English proficient consumers;

(6) Bring services to the consumer or locate services at sites where transportation is available to consumers; and

(7) Ensure compliance with all state and federal nondiscrimination laws, rules and plans.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0415, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0420 Intake evaluation. (1) All individuals receiving community mental health outpatient services, with the exception of crisis, stabilization, and rehabilitation case management services, must have an intake evaluation. The purpose of an intake evaluation is to gather information to determine if a mental illness exists which is a covered diagnosis under Washington state's section 1915(b) capitated waiver program, and if there are medically necessary state plan services to address the individual's needs. (For a listing of the covered diagnoses and state plan services go to: http://www.dshs.wa.gov/pdf/hrsa/mh/Waiver_2008_2010_PIHP_NEW_%200408_with_final_revisions.pdf)

(2) The intake evaluation must:

(a) Be provided by a mental health professional.

(b) Be initiated within ten working days from the date on which the individual or their parent or other legal representative requests services and completed within thirty working days of the initiation of the intake.

(c) Be culturally and age relevant.

(d) Document sufficient information to demonstrate medical necessity as defined in the state plan, and must include:

(i) Presenting problem(s) as described by the individual, including a review of any documentation of a mental health condition provided by the individual. It must be inclusive of people who provide active support to the individual, if the individual so requests, or if the individual is under thirteen years of age;

(ii) Current physical health status, including any medications the individual is taking;

(iii) Current substance use and abuse and treatment status (GAIN-SS);

(iv) Sufficient clinical information to justify the provisional diagnosis using diagnostic and statistical manual (DSM IV TR) criteria, or its successor;

(v) An identification of risk of harm to self and others, including suicide/homicide. Note: A referral for provision of emergency/crisis services, consistent with WAC 388-865-0452, must be made if indicated in the risk assessment;

(vi) Whether they are under the supervision of the department of corrections; and

(vii) A recommendation of a course of treatment.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), and 71.34.380. 10-09-061, § 388-865-0420, filed 4/19/10, effective 5/20/10. Statutory Authority: RCW 71.24.035. 07-06-050, § 388-865-0420, filed 3/2/07, effective 4/2/07. Statutory Authority: RCW 71.05.445 and 71.05.390 as amended by 2004 c 166. 05-14-082, § 388-865-0420, filed 6/30/05, effective 7/31/05. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0420, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0425 Individual service plan. The community mental health agency must develop a consumer-driven, strength-based individual service plan that meets the individual's unique mental health needs. The individual service plan must be developed in collaboration with the individual, or the individual's parent or other legal representative if applicable. The service plan must:

(1) Be initiated with at least one goal identified by the individual, or their parent or other legal representative if applicable, at the intake evaluation or the first session following the intake evaluation.

(2) Be developed within thirty days from the first session following the intake evaluation.

(3) Address age, cultural, or disability issues identified by the individual, or their parent or other legal representative if applicable, as relevant to treatment.

(4) Include treatment goals or objectives that are measurable and that allow the provider and individual to evaluate progress toward the individual's identified recovery goals.

(5) Be in language and terminology that is understandable to individuals and their family.

(6) Identify medically necessary service modalities, mutually agreed upon by the individual and provider, for this treatment episode.

(7) Demonstrate the individual's participation in the development of the individual service plan. Participation may be demonstrated by the individual's signature and/or quotes documented in the plan. Participation must include family or significant others as requested by the individual. If the provider developing the plan is not a mental health professional, the plan must also document approval by a mental health professional.

(8) Include documentation that the individual service plan was reviewed at least every one hundred eighty days. It should also be updated to reflect any changes in the individual's treatment needs or as requested by the individual, or their parent or other legal representative if applicable.

(9) With the individual's consent, or their parent or other legal representative if applicable, coordinate with any systems or organizations the individual identifies as being relevant to the individual's treatment. This includes coordination with any individualized family service plan (IFSP) when serving children under three years of age.

(10) If an individual disagrees with specific treatment recommendations or is denied a requested treatment service, they may pursue their rights under WAC 388-865-0255.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), and 71.34.380. 10-09-061, § 388-865-0425, filed 4/19/10, effective 5/20/10. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0425, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0430 Clinical record. A licensed community mental health agency must have and maintain a clinical record for each individual served in a manner consistent with WAC 388-865-0435, 388-865-0436, or any successors. The clinical record must contain:

(1) An intake evaluation.

(2) Evidence that the consumer rights statement was provided to the individual, or their parent or other legal representative when applicable.

(3) Documentation that the provider requested a copy of and inserted into the clinical record if provided, any of the following:

(a) Mental health advance directives;

(b) Medical advance directives;

(c) Powers of attorney;

(d) Letters of guardianship, parenting plans and/or court order for custody;

(e) Least restrictive alternative order(s);

(f) Discharge summaries and/or evaluations stemming from outpatient or inpatient mental health services received within the last five years, when available.

(4) Any crisis plan that has been developed.

(5) The individual service plan and all revisions to the plan.

(6) Documentation that services are provided by or under the clinical supervision of a mental health professional.

(7) Documentation of any clinical consultation or oversight provided by a mental health specialist.

(8) Documentation of:

(a) All service encounters;

(b) Objective progress toward established goals as outlined in the treatment plan; and

(c) How any major changes in the individual's circumstances were addressed.

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

(10) Documentation that the department of corrections was notified by the provider when an individual on a less restrictive alternative or department of corrections order for mental health treatment informs the provider that the individ-

ual is under supervision by the department of corrections. Notification can be either written or oral. If oral notification, it must be confirmed by a written notice, including e-mail and fax. The disclosure to department of corrections does not require the person's consent.

(a) If the individual has been given relief from disclosure by the committing court, the individual must provide a copy of the court order to the treating community mental health agency (CMHA).

(b) There must be documentation that an evaluation by a designated mental health professional (DMHP) was requested in the following circumstance:

(i) The mental health provider becomes aware of a violation of the court-ordered treatment of an individual when the violation concerns public safety; and

(ii) The individual's treatment is a less restrictive alternative and the individual is being supervised by the department of corrections.

(11) Either documentation of informed consent to treatment by the individual or parent or other legal representative or if treatment is court ordered, a copy of the detention or involuntary treatment order.

(12) Documentation that the individual, or their parent or other legal representative if applicable, are informed about the benefits and possible side effects of any medications prescribed for the individual in language that is understandable.

(13) Documentation of confidential information that has been released without the consent of the individual under the provisions in RCW 70.02.050, 71.05.390, 71.05.630, and the Health Insurance Portability and Accountability Act (HIPAA).

(14) For individuals receiving community support services, the following information must be requested from the individual and the responses documented:

(a) The name of any current primary medical care provider;

(b) Any current physical health concerns;

(c) Current medications and any related concerns;

(d) History of any substance use/abuse and treatment;

(e) Any disabilities or special needs;

(f) Any previously accessed inpatient or outpatient services and/or medications to treat a mental health condition; and

(g) Information about past or current trauma and abuse.

(15) A description of the individual's strengths and resources.

(16) A description of the individual's self-identified culture.

(17) If the individual is a minor and, if applicable:

(a) Documentation that the minor's parent(s) brought the minor to the agency to be evaluated by a mental health specialist.

(b) Written authorization that allows the bringing of the minor to the agency to be evaluated by a mental health specialist.

(c) Documentation that the minor was evaluated by a mental health specialist and a determination of whether or not the minor has a mental disorder that requires outpatient treatment.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.375, 71.34.500, 71.34.510, 71.34.520, 71.34.610, 71.34.620, 71.34.630, 71.34.640, 71.34.650, 71.34.750, and 2011 c 302. 12-21-133, § 388-865-0430, filed 10/24/12, effective 11/24/12. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), and 71.34.380. 10-09-061, § 388-865-0430, filed 4/19/10, effective 5/20/10. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0430, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.445 and 71.05.390 as amended by 2004 c 166. 05-14-082, § 388-865-0430, filed 6/30/05, effective 7/31/05. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0430, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0435 Consumer access to their clinical record. The service provider must provide access to clinical records for consumers, their designated representative, and/or the person legally responsible for the consumer, consistent with chapters 71.05, 70.02, and 71.34 RCW and RCW 13.50.400 (4)(b) for children. The provider must:

(1) Make the record available within fifteen days;

(2) Review the clinical record to identify and remove any material confidential to another person, agency, provider or reports not originated by the community support service provider;

(3) Allow the consumer appropriate time and privacy to review the clinical record;

(4) Provide a clinical staff member to answer questions at the request of the consumer; and

(5) Charge for copying at a rate not higher than that defined in RCW 70.02.010(12).

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0435, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0436 Clinical record access procedures. The community support service provider must develop policies and procedures to protect information and to ensure that information about consumers is shared or released only in compliance with state and federal law (see chapters 70.02, 71.05, 71.34, 74.04 RCW and RCW 13.50.100 (4)(b)) and this chapter.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0436, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0440 Availability of consumer information. (1) Consumer individualized crisis plans as provided by the consumer must be available twenty-four hours a day, seven days a week to the following, as consistent with confidentiality statutes and without unduly delaying a crisis response:

(a) Designated mental health professionals;

(b) Crisis teams; and

(c) Voluntary and involuntary inpatient evaluation and treatment facilities.

(2) Consumer information must be available to the state and regional support network staff as required for management information, quality management and program review.

[Statutory Authority: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035. 09-19-012, § 388-865-0440, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0440, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0440, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0445 Establishment of procedures to bill for services. Consumers receiving services or the parent(s) of a person under the age of eighteen, the legal guardian, or the estate of the individual is responsible for payment for services received. The provider must establish policies and procedures to:

(1) Bill all third-party payors and private pay consumers. Persons eligible for the medicaid program are not to be billed for medically necessary covered services.

(2) Develop a written schedule of fees that considers the consumer's available income, family size, allowable deductions and exceptional circumstances:

(a) Payment must not be required from consumers whose income is below TANF standards as defined in WAC 388-478-0020;

(b) The fee schedule must be posted in the agency and available to provider staff, consumers, the regional support network, and the mental health prepaid health plan.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0445, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0450 Quality management process. Community support service providers must ensure continued progress toward more effective and efficient age and culturally competent services and improved consumer satisfaction and outcomes, including objective measures of progress toward rehabilitation, recovery and reintegration into the mainstream of social, employment and educational choices by maintaining an internal quality management process. The process must:

(1) Review the services offered and provided to improve the treatment of consumers, including the quality of intake evaluations and the effectiveness of prescribed medications;

(2) Review the work of persons providing mental health services at least annually; and

(3) Continuously collect, maintain, and use information to correct deficiencies and improve services. Such data must include but is not limited to reports of serious and emergent incidents as well as grievances filed by consumers or their representatives.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0450, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0452 Emergency crisis intervention services—Additional standards. The community support service provider that is licensed for emergency crisis intervention services must assure that required general minimum standards for community support services are met, plus the additional minimum requirements:

(1) Availability of staff to respond to crises twenty-four hours a day, seven days a week, including:

(a) Bringing services to the person in crisis when clinically indicated;

(b) Requiring that staff remain with the consumer in crisis to stabilize and support him/her until the crisis is resolved or a referral to another service is accomplished;

(c) Resolving the crisis in the least restrictive manner possible;

(d) A process to include family members, significant others, and other relevant treatment providers as necessary to provide support to the person in crisis.

(2) Written procedures for managing assaultive and/or self-injurious patient behavior.

(3) Written procedures for visits to homes and other private locations in accordance with the requirements of RCW 71.05.700 through 71.05.715.

(4) Crisis telephone screening;

(5) Mobile outreach and stabilization services with trained staff available to provide in-home or in-community stabilization services, including flexible supports to the person where he/she lives.

(6) Provide access to necessary services including:

(a) Medical services, which means at least emergency services, preliminary screening for organic disorders, prescription services, and medication administration;

(b) Interpretive services to enable staff to communicate with consumers who have limited ability to communicate in English, or have sensory disabilities;

(c) Mental health specialists for children, elderly, ethnic minorities or consumers who are deaf or developmentally disabled;

(d) Voluntary and involuntary inpatient evaluation and treatment services, including a written protocol to assure that consumers who require involuntary inpatient services are transported in a safe and timely manner;

(e) Investigation and detention to involuntary services under chapter 71.05 RCW for adults and chapter 71.34 RCW for children who are thirteen years of age or older, including written protocols for contacting the designated mental health professional.

(7) Document all telephone and face-to-face crisis response contacts, including:

(a) Source of referral;

(b) Nature of crisis;

(c) Time elapsed from the initial contact to face-to-face response; and

(d) Outcomes, including basis for decision not to respond in person, follow-up contacts made, and referrals made.

(8) The provider must have a written protocol for referring consumers to a voluntary or involuntary inpatient evaluation and treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis, including arrangements for contacting the designated mental health professional and transporting consumers.

[Statutory Authority: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035. 09-19-012, § 388-865-0452, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0452, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0452, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0453 Peer support services. (1) Peer support services are a wide range of scheduled activities to assist consumers in exercising control over their own lives and recovery process (e.g., promoting socialization, self advocacy, developing natural supports and maintenance of community living skills). Peer support services may include but are not limited to self-help support groups, telephone sup-

port lines, drop-in centers, and sharing of the peer counselor's own life experiences. Services must be limited to four hours per day per consumer.

(2) The community support service provider that is licensed to provide peer support services must assure that all general minimum standards for community support services are met.

(3) Services must be provided by a peer counselor who has been certified consistent with WAC 388-865-0107 and who discloses him/herself to be a consumer of mental health services.

(4) Services must be documented in the clinical record at least monthly, including objective progress toward goals established in the individual service plan.

[Statutory Authority: RCW 71.24.035 (5)(c), 71.24.037. 05-17-156, § 388-865-0453, filed 8/22/05, effective 9/22/05.]

WAC 388-865-0454 Provider of crisis telephone services only. This section applies only to organizations that receive public mental health funds for the purpose of providing crisis telephone services but are not licensed community support providers. In order to be licensed to provide crisis telephone services, the following requirements must be met:

(1) Staff available to respond to crisis calls twenty-four hours a day, seven days a week;

(2) The agency must assure communication and coordination with the consumer's case manager or primary care provider;

(3) The agency must assure that staff are aware of and protect consumer rights as described in WAC 388-865-0410;

(4) The following sections of WAC subsections apply:

(a) WAC 388-865-0405, Competency requirements for staff;

(b) WAC 388-865-0410, Consumer rights;

(c) WAC 388-865-0440, Availability of consumer information;

(d) WAC 388-865-0450, Quality management process;

(e) WAC 388-865-0452 (6)(a) thru (d), Emergency crisis intervention services—Additional standards;

(f) WAC 388-865-0468, The process for licensing service providers;

(g) WAC 388-865-0472, Licensing categories;

(h) WAC 388-865-0474, Fees for community support licensure;

(i) WAC 388-865-0476, Licensure based on deemed status;

(j) WAC 388-865-0478, Renewal of the provider license;

(k) WAC 388-865-0480, Procedures to suspend or revoke a license;

(l) WAC 388-865-0482, Procedures to contest a licensing decision.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0454, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0456 Case management services—Additional standards. The community support service provider for case management services must assure that all general minimum standards for community support services and are met, plus the following additional minimum requirements:

(1) Assist consumers to achieve the goals stated in their individualized service plan;

(2) Support consumer employment, education or participation in other daily activities appropriate to their age and culture;

(3) Make referrals to other needed services and supports, including treatment for co-occurring disorders and health care;

(4) Assist consumers to resolve crises in least-restrictive settings;

(5) Provide information and education about the consumer's illness so the consumer and family and natural supports are engaged to help consumers manage the consumer's symptoms;

(6) Include, as necessary, flexible application of funds, such as rent subsidies, rent deposits, and in-home care to enable stable community living; and

(7) Maintain written procedures for home visits in accordance with the requirements of RCW 71.05.700 through 71.05.715.

[Statutory Authority: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035. 09-19-012, § 388-865-0456, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0456, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0458 Psychiatric treatment, including medication supervision—Additional standards. The licensed community support service provider for psychiatric treatment, including medication supervision must meet all general minimum standards for community support in addition to the following minimum requirements:

(1) Document the assessment and prescription of psychotropic medications appropriate to the needs of the consumer. Document that consumers and, as appropriate, family members are informed about the medication and possible side effects in language that is understandable to the consumer, and referred to other health care facilities for treatment of nonpsychiatric conditions;

(2) Provider staff must inspect and inventory medication storage areas at least quarterly:

(a) Medications must be kept in locked, well-illuminated storage;

(b) Medications kept in a refrigerator containing other items must be kept in a separate container with proper security;

(c) No outdated medications must be retained, and medications must be disposed of in accordance with regulations of the state board of pharmacy;

(d) Medications for external use must be stored separately from oral and injectable medications;

(e) Poisonous external chemicals and caustic materials must be stored separately.

(3) Medical direction and responsibility is assigned to a physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or -eligible in psychiatry;

(4) Medications are only prescribed and administered by persons consistent with their license and related requirements;

(5) Medications are reviewed at least every three months;

(6) Medication information is maintained in the clinical record and documents at least the following for each prescribed medication:

(a) Name and purpose of medication;

(b) Dosage and method of giving medication;

(c) Dates prescribed, reviewed, and renewed;

(d) The effects, interactions, and side effects the staff observes or the consumer reports spontaneously or as the result of questions from the staff;

(e) Any laboratory findings;

(f) Reasons for changing or stopping the medication; and

(g) Name and signature of prescribing person.

(7) Assessment and appropriate referrals to or consultation with a physician or other health care provider when physical health problems are suspected or identified;

(8) Address current medical concerns consistent with the individualized service plan;

(9) If the service provider is unable to employ or contract with a psychiatrist, a physician without board eligibility in psychiatry may be utilized, provided that:

(a) Psychiatrist consultation is provided to the physician at least monthly; and

(b) A psychiatrist is accessible in person, by telephone, or by radio communication to the physician for emergency consultation.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0458, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0460 Counseling and psychotherapy services—Additional standards. The licensed community support service provider for counseling and psychotherapy services must assure that all general minimum standards for community support are met.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0460, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0462 Day treatment services—Additional standards. The licensed community support service provider for day treatment services must assure that all general minimum standards for community support are met. Day treatment services are defined as work or other activities of daily living for consumers:

(1) Services for adults include:

(a) Training in basic living and social skills;

(b) Supported work and preparation for work;

(c) Vocational rehabilitation;

(d) Day activities; and, if appropriate;

(e) Counseling and psychotherapy services.

(2) Services for children include:

(a) Age-appropriate living and social skills;

(b) Educational and prevocational services;

(c) Day activities; and

(d) Counseling and psychotherapy services.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0462, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0464 Consumer employment services—Additional standards. The community support service provider licensed for employment services must assure that all general minimum standards for community support and are met, plus the following additional minimum requirements:

(1) Assist consumers to achieve the goals stated in his/her individualized service plan and provide access to employment opportunities, including:

(a) A vocational assessment of work history, skills, training, education, and personal career goals;

(b) Information about how employment will affect income and benefits the consumer is receiving because of their disability;

(c) Active involvement with consumers served in creating and revising individualized job and career development plans;

(d) Assistance in locating employment opportunities that are consistent with the consumer's skills, goals, and interests;

(e) Integrated supported employment, including outreach/job coaching and support in a normalized or integrated worksite, if required; and

(f) Interaction with the consumer's employer to support stable employment and advise about reasonable accommodation in keeping with the Americans with Disabilities Act (ADA) of 1990, and the Washington State Antidiscrimination law.

(2) Pay consumers according to the Fair Labor Standards Act; and ensure safety standards that comply with local and state regulations are in place if the provider employs consumers as part of the prevocational or vocational program;

(3) Coordinate efforts with other rehabilitation and employment services, such as:

(a) The division of vocational rehabilitation;

(b) The state employment services;

(c) The business community; and

(d) Job placement services within the community.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0464, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0465 Adult residential treatment facility certification—Additional standards. In order to be certified to provide services at an adult residential treatment facility, the licensed mental health agency must assure that all general minimum standards for community support are met, and in addition:

(1) Be licensed as a mental health adult residential treatment facility by the department of health under chapter 246-337 WAC; and

(2) Be certified to provide services to a consumer on a less restrictive alternative court order consistent with WAC 388-865-0466.

[Statutory Authority: RCW 71.05.560. 04-12-043, § 388-865-0465, filed 5/28/04, effective 6/28/04. Statutory Authority: RCW 71.05.560 and chapter 71.05 RCW. 04-01-091, § 388-865-0465, filed 12/16/03, effective 1/16/04.]

WAC 388-865-0466 Community support outpatient certification—Additional standards. In order to provide services to consumers on a less restrictive alternative court order, providers must be licensed to provide the psychiatric

and medical service component of community support services and be certified by the mental health division to provide involuntary treatment services consistent with WAC 388-865-0484. In addition, the provider must:

(1) Document in the consumer clinical record and otherwise ensure:

(a) Detained and committed consumers are advised of their rights under chapter 71.05 or 71.34 RCW and as follows:

(i) To receive adequate care and individualized treatment;

(ii) To make an informed decision regarding the use of antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the consumer has the right to attend;

(iii) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation and treatment for a mental disorder;

(iv) Of access to attorneys, courts, and other legal redress;

(v) To have the right to be told statements the consumer makes may be used in the involuntary proceedings; and

(vi) To have the right to have all information and records compiled, obtained, or maintained in the course of treatment kept confidential as defined in chapters 71.05 and 71.34 RCW.

(b) A copy of the less restrictive alternative court order and any subsequent modifications are included in the clinical record;

(c) Development and implementation of an individual service plan which addresses the conditions of the less restrictive alternative court order and a plan for transition to voluntary treatment;

(d) That the consumer receives psychiatric treatment including medication management for the assessment and prescription of psychotropic medications appropriate to the needs of the consumer. Such services must be provided:

(i) At least weekly during the fourteen-day period;

(ii) Monthly during the ninety-day and one-hundred eighty day periods of involuntary treatment unless the attending physician determines another schedule is more appropriate, and they record the new schedule and the reasons for it in the consumer's clinical record.

(2) Maintain written procedures for managing assaultive and/or self-destructive patient behavior, and provide training to staff in these interventions;

(3) Have a written protocol for referring consumers to an inpatient evaluation and treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis;

(4) For consumers who require involuntary detention the protocol must also include procedures for:

(a) Contacting the designated mental health professional regarding revocations and extension of less restrictive alternatives, and

(b) Transporting consumers.

(5) Maintain written procedures for home visits in accordance with the requirements of RCW 71.05.700 through 71.05.715

[Statutory Authority: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035. 09-19-012, § 388-865-0466, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0466, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0466, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0468 Emergency crisis intervention services certification—Additional standards. In order to provide emergency services to a consumer who may need to be detained or who has been detained, the service provider must be licensed for emergency crisis intervention services and be certified by the mental health division to provide involuntary treatment services consistent with WAC 388-865-0484. In addition, the provider must:

(1) Be available seven-days-a-week, twenty-four-hours-per-day;

(2) Follow a written protocol for holding a consumer and contacting the designated mental health professional;

(3) Provide or have access to necessary medical services;

(4) Have a written agreement with a certified inpatient evaluation and treatment facility for admission on a seven day a week, twenty-four hour per day basis;

(5) Follow a written protocol for transporting individuals to inpatient evaluation and treatment facilities; and

(6) Maintain written procedures for home visits in accordance with the requirements of RCW 71.05.700 through 71.05.715.

[Statutory Authority: RCW 71.05.560, 71.05.700, 71.05.705, 71.05.710, 71.05.715, 71.05.720, and 71.24.035. 09-19-012, § 388-865-0468, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0468, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0468, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0470 The process for initial licensing of service providers. An applicant for a community support license must comply with the following process:

(1) Complete and submit an application form, along with the required fee to the mental health division. A copy of the application form must be provided to the area regional support network. The regional support network may make written comments to the mental health division about the provider's application for licensure. The application must indicate the service components the applicant wants to offer, as listed in WAC 388-865-0400;

(2) A regional support network may submit an application to the mental health division to operate as a licensed community support service provider as defined in WAC 388-865-0288;

(3) The mental health division conducts an on-site review to examine agency policies and procedures, personnel records, clinical records, financial documents, and any other information that may be necessary to confirm compliance with minimum standards of this section;

(4) The consumer chart review is conducted during a second site review within twelve months of the issuance of the provisional license for the agency or service component if the site review is being conducted in response to a license application for a new agency or a new service component in a currently licensed agency;

(5) The mental health division may include representatives of the regional support network or mental health prepaid

health plan in the licensing review process. If a provider is licensed based on deemed status as outlined in WAC 388-865-0476, input from the accrediting agency may be considered;

(6) The on-site review concludes with an exit conference that includes:

(a) Discussion of findings, if any;

(b) Statement of deficiencies requiring a plan of correction;

(c) A plan of correction signed by the applicant agency director and the mental health division review team representative with a completion date no greater than sixty days from the date of the exit conference, unless otherwise negotiated with the review team representative. Consumer health and safety concerns may require immediate corrective action.

(7) If the provider fails to correct the deficiencies noted within the agreed-upon time frames, licensure will be denied. The mental health division notifies the applicant in writing of the reasons for denial and the right to a review of the decision in an administrative hearing;

(8) If licensure is denied, the applicant must wait at least six months following the date of notification of denial before reapplying.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0470, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0472 Licensing categories. The mental health division assigns the community support service applicant or licensee one of the following types of licenses:

(1) Provisional license. This category is given only to a new applicant. The mental health division may grant a provisional license for up to one year if the provider, has:

(a) An acceptable detailed plan for the development and operation of the services;

(b) The availability of administrative and clinical expertise required to develop and provide the planned services;

(c) The fiscal management and existence or projection of resources to reasonably ensure stability and solvency; and

(d) A corrective action plan approved by the mental health division, if applicable, for any deficiencies.

(2) Full License. Full licensure means that the applicant or licensee is in substantial compliance with the law, applicable rules and regulations, and state minimum standards.

(3) Probationary license. The mental health division may issue a probationary license if the service provider is substantially out of compliance with the requirements of state and federal law, applicable rules and regulations and state minimum standards. The mental health division provides the service provider with a written notice of the deficiencies.

(a) If the deficiency has caused or is likely to cause serious injury, harm, impairment or death to a consumer, the deficiencies must be corrected within a time frame specified by the mental health division;

(b) If the provider fails to complete a corrective action plan or correct deficiencies according to the corrective action plan, the license may be suspended or revoked;

(c) To regain full licensure, a service provider in probationary status must provide a written statement to the mental health division when it has made all required corrective actions and now complies with relevant federal and state law, applicable rules and regulations, and state minimum standards;

(d) The mental health division may conduct an on-site review to confirm that the corrections have been made.

(4) The mental health division may perform an onsite visit to determine the validity of a complaint or notice that a community support service provider is out of compliance with law, applicable rules and regulations, and state minimum standards.

(5) If the service provider does not demonstrate compliance with the requirements of this section, the mental health division may initiate procedures to suspend or revoke a license consistent with state and federal laws, rules and regulations consistent with the provisions of RCW 71.24.035 (7) through (11) and of 43.20A.205.

(6) A regional support network or prepaid health plan may choose to contract with a service provider with a provisional license, full license, or probationary license, but may not contract with a provider with a suspended or revoked license.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0472, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0476 Licensure based on deemed status. (1) The mental health division may deem compliance with state minimum standards and issue a community support service license based on the provider being currently accredited by a national accreditation agency recognized by and having a current agreement with the mental health division. Deeming will be in accordance with the established agreement between the mental health division and the accrediting agency.

(2) The mental health division will only grant licensure based on deemed status to providers with a full license as defined in WAC 388-865-0472.

(3) Specific requirements of state regulation, contract or policy will be waived through a deeming process consistent with the working agreement between the mental health division and the accrediting agency;

(4) Specific requirements of state or federal law, or regulation will not be waived through a deeming process.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0476, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0478 Renewal of a community support service provider license. (1) Each year the community support service provider must renew its license. The community support service provider sends the reapplication for licensure to mental health division along with the required fee.

(2) If the service provider contracts with the regional support network or prepaid health plan it must send a copy of the application to the regional support network or mental health prepaid health plan. The regional support network or mental health prepaid health plan may make written comments to the mental health division about renewing the service provider's license. They must send the service provider a copy.

(3) The mental health division considers the request for renewal, along with any recommendations from the regional support network or mental health prepaid health plan and the results of any onsite reviews completed.

(4) If the provider is in compliance with applicable laws and standards, the mental health division sends the service provider a renewed license, with a copy to the regional support network or mental health prepaid health plan if applicable.

(5) Failure to submit the annual application for renewal license and/or to pay fees when due results in expiration of the license and the provider will be placed on probationary status.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0478, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0480 Procedures to suspend, or revoke a license. (1) The mental health division may suspend, revoke, limit or restrict the license of a community support service provider, or refuse to grant or renew a license for failure to conform to the law, applicable rules and regulations, or state minimum standards.

(2) The mental health division may suspend, revoke, limit or restrict the license of a service provider immediately if there is imminent risk to consumer health and safety.

(3) The mental health division sends a written decision to revoke, suspend, or modify the former licensure status under RCW 43.20A.205, with the reasons for the decision and informing the service provider of its right to an administrative hearing. A copy of the letter will be sent to the area regional support network.

(4) A regional support network or mental health prepaid health plan must not contract with a service provider with a suspended or revoked license.

(5) The mental health division may suspend or revoke a license when a service provider in probationary status fails to correct the health and safety deficiencies as agreed in the corrective action plan with the mental health division.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0480, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0482 Procedures to contest a licensing decision. To contest a decision by the mental health division, the service provider, regional support network, or mental health prepaid health plan must, within twenty-eight calendar days:

(1) File a written application for a hearing with a method that shows proof of receipt to: The Board of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(2) Include in the appeal:

(a) The issue to be reviewed and the date the decision was made;

(b) A specific statement of the issue and law involved;

(c) The grounds for contesting a decision of the mental health division; and

(d) A copy of the mental health division decision that is being contested.

(3) The appeal must be signed by the director of the service provider and include the address of the service provider.

(4) The decision will be made following the requirements of the Administrative Procedure Act, chapter 34.05 RCW and chapter 388-02 WAC.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0482, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0484 Process to certify providers of involuntary services. In order to be certified to provide services to consumers on an involuntary basis, the provider must comply with the following process:

(1) Be licensed as a community support provider consistent with this section or licensed as a community hospital by the department of health;

(2) Complete and submit an application for certification to the regional support network or the mental health division if the DSHS secretary has assumed the duties assigned to the nonparticipating regional support network;

(3) The regional support network selects providers for certification and makes a request to the mental health division for certification;

(4) The mental health division conducts an on-site review to examine agency policies and procedures, personnel records, clinical records, financial documents, and any other information that may be necessary to confirm compliance with minimum standards of this section;

(5) The mental health division grants certification based on compliance with the minimum standards of this section and chapter 71.05 RCW;

(6) The certificate may be renewed annually if:

(a) Requested by the regional support network or those providers contracted with the mental health division directly; and

(b) The provider continues to comply with the minimum standards of this section;

(7) The procedures to suspend or revoke a certificate are the same as outlined in WAC 388-865-0468;

(8) The appeal process to contest a decision of the mental health decision is the same as outlined in WAC 388-865-0482.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.380, and 74.08.090. 09-02-030, § 388-865-0484, filed 12/30/08, effective 1/30/09. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0484, filed 5/31/01, effective 7/1/01.]

SECTION FIVE—INPATIENT EVALUATION AND TREATMENT FACILITIES

WAC 388-865-0500 Inpatient evaluation and treatment facilities. (1) The mental health division certifies facilities to provide involuntary inpatient evaluation and treatment services for more than twenty-four hours within a general hospital, psychiatric hospital, inpatient evaluation and treatment facility, or child long-term inpatient treatment facility.

(2) Compliance with the regulations in this chapter does not constitute release from the requirements of applicable federal, state, tribal and local codes and ordinances. Where regulations in this chapter exceed other local codes and ordinances, the regulations in this chapter will apply.

(3) 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: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0500, filed 3/4/04, effective 4/4/04. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0500, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0511 Evaluation and treatment facility certification. To obtain and maintain certification to provide inpatient evaluation and treatment services under chapter 71.05 and 71.34 RCW, a facility must meet the following requirements:

(1) Be licensed by the department of health as:

(a) A hospital as defined in chapter 70.41 RCW;

(b) A psychiatric hospital as defined in chapter 246-322 WAC;

(c) A mental health inpatient evaluation and treatment facility consistent with chapter 246-337 WAC; or

(d) A mental health child long-term inpatient treatment facility consistent with chapter 246-337 WAC.

(2) Be approved by the regional support network, or the mental health division. Child long-term inpatient treatment facilities can only be approved by the mental health division.

(3) Successfully complete a provisional and annual onsite review by the mental health division to determine facility compliance with the minimum standards of this section and chapters 71.05 and 71.34 RCW.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.380, and 74.08.090. 09-02-030, § 388-865-0511, filed 12/30/08, effective 1/30/09. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0511, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0520 Certification based on deemed status. The mental health division may deem compliance with state minimum standards for facilities that are currently accredited by a national accreditation agency recognized by and having a current agreement with the mental health division.

(1) Deeming will be in accordance with the established agreement between the mental health division and the accrediting agency, to include the minimum standards of this section and chapters 71.05 and 71.34 RCW.

(2) The mental health division retains all responsibilities relating to applications of new providers, complaint investigations, suspensions and revocations.

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0520, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0526 Single bed certification. At the discretion of the mental health division, an exception may be granted to allow treatment to an adult on a seventy-two hour detention or fourteen-day commitment in a facility that is not certified under WAC 388-865-0500; or for a maximum of thirty days to allow a community facility to provide treatment to an adult on a ninety- or one hundred eighty-day inpatient involuntary commitment order. For involuntarily detained or committed children, the exception may be granted to allow treatment in a facility not certified under WAC 388-865-0500 until the child's discharge from that setting to the community, or until they transfer to a bed in a children's long-term inpatient program (CLIP).

(1) The regional support network or its designee must submit a written request for a single bed certification to the mental health division prior to the commencement of the order. In the case of a child, the facility must submit the written request directly to the mental health division. If the DSHS secretary has assumed the duties assigned to a nonparticipating regional support network, a single bed certification may be requested by a mental health division designee contracted to provide inpatient authorization or designated crisis response services.

(2) The facility receiving the single bed certification must meet all requirements of this section unless specifically waived by the mental health division.

(3) The request for single bed certification must describe why the consumer meets at least one of the following criteria:

(a) The consumer requires services that are not available at a facility certified under this chapter or a state psychiatric hospital; or

(b) The consumer is expected to be ready for discharge from inpatient services within the next thirty days and being at a community facility would facilitate continuity of care, consistent with the consumer's individual treatment needs.

(4) The mental health division director or the director's designee makes the decision and gives written notification to the requesting entity in the form of a single bed certification. The single bed certification must not contradict a specific provision of federal law or state statute.

(5) The mental health division may make site visits at any time to verify that the terms of the single bed certification are being met. Failure to comply with any term of this exception may result in corrective action. If the mental health division determines that the violation places consumers in imminent jeopardy, immediate revocation of this exception can occur.

(6) Neither consumers nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding single bed certification decisions by mental health division staff.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.380, and 74.08.090. 09-02-030, § 388-865-0526, filed 12/30/08, effective 1/30/09. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0526, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0531 Exception to rule—Long-term certification. (1) For adults: At the discretion of the mental health division, a facility may be granted an exception to WAC 388-865-0229 in order to allow the facility to be certified to provide treatment to adults on a ninety- or one hundred eighty-day inpatient involuntary commitment orders.

(2) For children: At the discretion of the mental health division, a facility that is certified as a 'mental health inpatient evaluation and treatment facility' may be granted an exception to provide treatment to a child on a one hundred and eighty-day inpatient involuntary treatment order only until the child is discharged from his/her order to the community, or until a bed is available for that child in a child long-term inpatient treatment facility (CLIP). The child cannot be assigned by the CLIP placement team in accordance with RCW 71.34.100 to any facility other than a CLIP facility.

(3) The exception certification may be requested by the facility, the director of the mental health division or his/her designee, or the regional support network for the facility's geographic area.

(4) The facility receiving the long-term exception certification for ninety- or one hundred eighty-day patients must meet all requirements found in WAC 388-865-0500.

(5) The exception certification must be signed by the director of the mental health division. The exception certification may impose additional requirements, such as types of consumers allowed and not allowed at the facility, reporting requirements, requirements that the facility immediately report suspected or alleged incidents of abuse, or any other requirements that the director of the mental health division determines are necessary for the best interests of residents.

(6) The mental health division may make unannounced site visits at any time to verify that the terms of the exception certification are being met. Failure to comply with any term of the exception certification may result in corrective action. If the mental health division determines that the violation places residents in imminent jeopardy, immediate revocation of the certification can occur.

(7) Neither consumers nor facilities have fair hearing rights as defined under chapter 388-02 WAC regarding the decision to grant or not to grant exception certification.

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0531, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0536 Standards for administration—Inpatient evaluation and treatment facilities. An inpatient evaluation and treatment facility must develop a policy to implement the following administrative requirements:

(1) A description of the program, including age of consumers to be served, length of stay and services to be provided.

(2) An organizational structure including clear lines of authority for management and clinical supervision.

(3) Designation of a physician or other mental health professional as the professional person in charge of clinical services at that facility.

(4) A quality management plan to monitor, collect data and develop improvements to meet the requirements of this chapter.

(5) A policy management structure that establishes:

(a) Procedures for maintaining and protecting resident medical/clinical records consistent with chapter 70.02 RCW, "Medical Records Health Care Information Access and Disclosure Act" and Health Insurance Portability and Accountability Act (HIPAA);

(b) Procedures for maintaining adequate fiscal accounting records consistent with generally accepted accounting principles (GAAP);

(c) Procedures for management of human resources to ensure that residents receive individualized treatment or care by adequate numbers of staff who are qualified and competent to carry out their assigned responsibilities;

(d) Procedures for admitting consumers needing inpatient evaluation and treatment services seven days a week, twenty-four hours a day, except that child long-term inpatient treatment facilities are exempted from this requirement;

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

(f) 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;

(g) Procedures to assure access to necessary medical treatment, emergency life-sustaining treatment, and medication;

(h) Procedures to assure the protection of consumer and family rights as described in this chapter and chapters 71.05 and 71.34 RCW;

(i) Procedures to inventory and safeguard the personal property of the consumer being detained, including a process to limit inspection of the inventory list by responsible relatives or other persons designated by the detained consumer;

(j) Procedures to assure that a mental health professional and licensed physician are available for consultation and communication with both the consumer and the direct patient care staff twenty-four hours a day, seven days a week;

(k) Procedures to provide warning to an identified person and law enforcement when an adult has made a threat against an identified victim;

(l) Procedures to ensure that consumers detained for up to fourteen or ninety additional days of treatment are evaluated by the professional staff of the facility in order to be prepared to testify that the consumer's condition is caused by a mental disorder and either results in likelihood of serious harm or the consumer being gravely disabled;

(m) Procedures to assure the rights of consumers to make mental health advance directives, and facility protocols for responding to consumer and agent requests consistent with RCW 71.32.150;

(n) Procedures to ensure that the following requirements are met when an individual is brought to the facility by a peace officer under RCW 71.05.153:

(i) The individual must be examined by a mental health professional (MHP) within three hours of arrival;

(ii) Within twelve hours of arrival, a designated mental health professional (DMHP) must determine if the individual meets detention criteria under chapter 71.05 RCW; and

(iii) If the facility releases the individual to the community, the facility must inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and has provided contact information to the facility.

[Statutory Authority: RCW 10.31.110, 71.05.153, 71.05.190, chapter 74.09 RCW, and 2011 c 305. 12-19-038, § 388-865-0536, filed 9/12/12, effective 10/13/12. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0536, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0541 Admission and intake evaluation. (1) For consumers who have been involuntarily detained, the facility must obtain a copy of the petition for initial detention stating the evidence under which the consumer was detained.

(2) The facility must document that each resident has received timely evaluations to determine the nature of the disorder and the treatment necessary, including:

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

(b) Examination and medical evaluation within twenty-four hours by a licensed physician, advanced registered nurse practitioner, or physician assistant-certified;

(c) Psychosocial evaluation by a mental health professional;

(d) Development of an initial treatment plan;

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

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

(3) A consumer who has been delivered to the facility by a peace officer for evaluation must be evaluated by a mental health professional within the following time frames:

(a) Three hours of an adult consumer's arrival;

(b) Twelve hours of arrival for a child in an inpatient evaluation and treatment facility; or

(c) At any time for a child who has eloped from a child long-term inpatient treatment facility and is being returned to the facility.

(4) If the licensed physician and mental health professional determine that the needs of an adult consumer would be better served by placement in a chemical dependency treatment facility then the consumer must be referred to an approved treatment program defined under chapter 70.96A RCW.

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0541, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0545 Use of seclusion and restraint procedures—Adults. Consumers have the right to be free from seclusion and restraint, including chemical restraint. The use of restraints or seclusion must occur only when there is imminent danger to self or others and less restrictive measures have been determined to be ineffective to protect the consumer or others from harm and the reasons for the determination are clearly documented. The evaluation and treatment facility must develop policies and procedures to assure that restraint and seclusion procedures are utilized only to the extent necessary to ensure the safety of patients and others:

(1) Staff must notify, and receive authorization by, a physician within one hour of initiating patient restraint or seclusion;

(2) The consumer must be informed of the reasons for use of seclusion or restraint and the specific behaviors which must be exhibited in order to gain release from these procedures;

(3) The clinical record must document staff observation of the consumer at least every fifteen minutes and observation recorded in the consumer's clinical record;

(4) If the use of restraint or seclusion exceeds twenty-four hours, a licensed physician must assess the consumer and write a new order if the intervention will be continued. This procedure is repeated again for each twenty-four hour period that restraint or seclusion is used;

(5) All assessments and justification for the use of seclusion or restraint must be documented in the consumer's medical record.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0545, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0546 Use of seclusion and restraint procedures—Children. Consumers have the right to be free from seclusion and restraint, including chemical restraint. The use of restraints or seclusion must occur only when there is imminent danger to self or others and less restrictive measures have been determined to be ineffective to protect the consumer or others from harm and the reasons for the determination are clearly documented. The evaluation and treatment facility must develop policies and procedures to assure that restraint and seclusion procedures are utilized only to the extent necessary to ensure the safety of patients and others:

(1) In the event of an emergency use of restraints or seclusion, a licensed physician must be notified within one hour and must authorize the restraints or seclusion;

(2) No consumer may be restrained or secluded for a period in excess of two hours without having been evaluated by a mental health professional. Such consumer must be directly observed every fifteen minutes and the observation recorded in the consumer's clinical record;

(3) If the restraint or seclusion exceeds twenty-four hours, the consumer must be examined by a licensed physician. The facts determined by his or her examination and any resultant decision to continue restraint or seclusion over twenty-four hours must be recorded in the consumer's clinical record over the signature of the authorizing physician. This procedure must be repeated for each subsequent twenty-four hour period of restraint or seclusion.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0546, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0547 Plan of care/treatment. The medical record must contain documentation of:

(1) Diagnostic and therapeutic services prescribed by the attending clinical staff.

(2) An individualized plan for treatment developed collaboratively with the consumer. This may include participation of a multidisciplinary team or mental health specialists as defined in WAC 388-865-0150, or collaboration with members of the consumer's support system as identified by the consumer.

(3) Copies of advance directives, powers of attorney or letters of guardianship provided by the consumer.

(4) A plan for discharge including a plan for follow-up where appropriate.

(5) Documentation of the course of treatment.

(6) That a mental health professional has contact with each involuntary consumer at least daily for the purpose of:

(a) Observation;

(b) Evaluation;

(c) Release from involuntary commitment to accept treatment on a voluntary basis;

(d) Discharge from the facility to accept voluntary treatment upon referral.

(7) For consumers who are being evaluated as dangerous mentally ill offenders under RCW 72.09.370(7), the professional person in charge of the evaluation and treatment facil-

ity must consider filing a petition for a ninety day less restrictive alternative in lieu of a petition for a fourteen-day commitment.

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0547, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0551 Qualification requirements for staff. The provider must document that staff and clinical supervisors are qualified for the position they hold and have the education, experience, or skills to perform the job requirements, including:

(1) A current job description.

(2) A current Washington state department of health license or certificate or registration as may be required for his/her position.

(3) Washington state patrol background checks for employees in contact with consumers consistent with RCW 43.43.830.

(4) Clinical supervisors must meet the qualifications of mental health professionals or specialists as defined in WAC 388-865-0150.

(5) An annual performance evaluation.

(6) Development of an individualized annual training plan, to include at least:

(a) The skills he or she needs for his/her job description and the population served;

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

(c) Methods of resident care;

(d) Management of assaultive and self-destructive behaviors, including proper and safe use of seclusion and/or restraint procedures; and

(e) The requirements of chapter 71.05 and 71.34 RCW, this chapter, and protocols developed by the mental health division.

(7) If contract staff are providing direct services, the facility must ensure compliance with the training requirements outlined in (6) above.

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0551, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0561 Posting of consumer rights. The consumer rights assured by RCW 71.05.370 and 71.34.160 must be prominently posted within the department or ward of the community or inpatient evaluation and treatment facility and provided in writing to the consumer, as follows: "You have the right to:

(1) Immediate release, unless involuntary commitment proceedings are initiated.

(2) Wear your own clothes and to keep and use personal possessions, except when deprivation is essential to protect your safety or that of another person.

(3) Keep and be allowed to spend a reasonable sum of your own money for canteen expenses and small purchases.

(4) Adequate care and individualized treatment.

(5) Have all information and records compiled, obtained, or maintained in the course of receiving services kept confidential.

(6) Have access to individual storage space for your private use.

(7) Have visitors at reasonable times.

(8) Have reasonable access to a telephone, both to make and receive confidential calls.

(9) Have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails.

(10) Not to consent to the administration of anti-psychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(2) or the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures: RCW 71.05.200 (1)(e); 71.05.215; and 71.05.370(7).

(11) To dispose of property and sign contracts unless you have been adjudicated as incompetent in a court proceeding directed to that particular issue.

(12) Not to have psychosurgery performed under any circumstances."

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0561, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0566 Rights of consumers receiving involuntary services. The provider must ensure that consumers who are receiving inpatient services involuntarily are informed of the following rights orally and provided with a copy in the primary language spoken/used/understood by the person. "You have the right to:

(1) Remain silent and any statement you make may be used against you.

(2) Access to attorneys, courts and other legal redress, including the name and address of the attorney the mental health professional has designated for you.

(3) Immediately be informed of your right to speak with an attorney and a review of the legality of your detention including representation at the probable cause hearing.

(4) Have access to a qualified language interpreter in the primary language understood by you, consistent with chapter 388-03 WAC.

(5) Have a responsible member of your immediate family if possible, guardian or conservator, if any, and such person as designated by you be given written notice of your inpatient status, and your rights as an involuntary consumer.

(6) A medical and psychosocial evaluation within twenty-four hours of admission to determine whether continued detention in the facility is necessary.

(7) A judicial hearing before a superior court if you are not released within seventy-two hours (excluding Saturday, Sunday, and holidays), to decide if continued detention within the facility is necessary.

(8) Not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided.

(9) Not to be denied treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(10) Refuse psychiatric medication, except medications ordered by the court under WAC 388-865-0570 but not any other medication previously prescribed by an authorized prescriber.

(11) Refuse treatment, but not emergency lifesaving treatment unless otherwise specified in a written advance directive provided to the facility.

(12) Be given a copy of WAC 388-865-0585 outlining limitations on the right to possess a firearm."

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0566, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0570 Rights related to antipsychotic medication. All consumers have a right to make an informed decision regarding the use of antipsychotic medication consistent with the provisions of RCW 71.05.370(7) and 71.05.215. The provider must develop and maintain a written protocol for the involuntary administration of antipsychotic medications, including the following requirements:

(1) The clinical record must document:

(a) The physician's attempt to obtain informed consent;

(b) The consumer was asked if he or she wishes to decline treatment during the twenty-four hour period prior to any court proceeding wherein the consumer has the right to attend and is related to his or her continued treatment. The answer must be in writing and signed when possible. In the case of a child under the age of eighteen, the physician must be able to explain to the court the probably effects of the medication.

(c) The reasons why any anti-psychotic medication is administered over the consumer's objection or lack of consent.

(2) The physician may administer anti-psychotic medications over a consumer's objections or lack of consent only when:

(a) An emergency exists, provided there is a review of this decision by a second physician within twenty-four hours. An emergency exists if:

(i) The consumer presents an imminent likelihood of serious harm to self or others;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and

(iii) In the opinion of the physician, the consumer's condition constitutes an emergency requiring that treatment be instituted before obtaining an additional concurring opinion by a second physician.

(b) There is an additional concurring opinion by a second physician for treatment up to thirty days;

(c) For continued treatment beyond thirty days through the hearing on any one hundred eighty-day petition filed under RCW 71.05.370(7), provided the facility medical director or director's medical designee reviews the decision to medicate a consumer. Thereafter, antipsychotic medication may be administered involuntarily only upon order of the court. The review must occur at least every sixty days.

(3) The examining physician must sign all one hundred eighty-day petitions for antipsychotic medications files under the authority of RCW 71.05.370(7);

(4) Consumers committed for one hundred eighty days who refuse or lack the capacity to consent to antipsychotic medications have the right to a court hearing under RCW 71.05.370(7) prior to the involuntary administration of antipsychotic medications;

(5) In an emergency, antipsychotic medications may be administered prior to the court hearing provided that an examining physician files a petition for an antipsychotic medication order the next judicial day;

(6) All involuntary medication orders must be consistent with the provisions of RCW 71.05.370 (7)(a) and (b), whether ordered by a physician or the court.

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0570, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0575 Special considerations for serving minor children. Inpatient evaluation and treatment facilities serving minor children seventeen years of age and younger must develop and implement policies and procedures to address special considerations for serving children. These special considerations must include:

(1) Procedures to ensure that adults are separated from minors who are not yet thirteen years of age.

(2) Procedures to ensure that a minor who is at least age thirteen but not yet age eighteen is served with adults only if the minor's clinical record contains:

(a) Documentation that justifies such placement; and

(b) A professional judgment that placement in an inpatient evaluation and treatment facility that serves adults will not be harmful to the minor or to the adult.

(3) Procedures to ensure examination and evaluation of a minor by a children's mental health specialist occurs within twenty-four hours of admission.

(4) Procedures to ensure a facility that operates inpatient psychiatric beds for minors and is licensed by the department of health under chapter 71.12 RCW, meets the following notification requirements if a minor's parent(s) brings the child to the facility for the purpose of mental health treatment or evaluation. The facility must:

(a) Provide a written and verbal notice to the minor's parent(s) of:

(i) All current statutorily available treatment options available to the minor including, but not limited to, those provided in chapter 71.34 RCW; and

(ii) A description of the procedures the facility will follow to utilize the treatment options.

(b) Obtain and place in the clinical file, a signed acknowledgment from the minor's parent(s) that the notice required under (a) of this subsection was received.

(5) Procedures that address provisions for evaluating a minor brought to the facility for evaluation by a parent(s).

(6) Procedures to notify child protective services any time the facility has reasonable cause to believe that abuse, neglect, financial exploitation or abandonment of a minor has occurred.

(7) Procedures to ensure a minor thirteen years or older who is brought to an inpatient evaluation and treatment facility or hospital for immediate mental health services is evaluated by the professional person in charge of the facility. The professional person must evaluate the minor's mental condition and determine a mental disorder, the need for inpatient treatment, and the minor's willingness to obtain voluntary treatment. The facility may detain or arrange for the detention of the minor up to twelve hours for evaluation by a designated mental health professional to commence detention proceedings.

(8) Procedures to ensure that the admission of a minor thirteen years of age or older admitted without parental consent has the concurrence of the professional person in charge

of the facility and written review and documentation no less than every one hundred eighty days.

(9) Procedures to ensure that notice is provided to the parent(s) when a minor child is voluntarily admitted to inpatient treatment without parental consent within twenty-four hours of admission in accordance with the requirements of RCW 71.34.510.

(10) Procedures to ensure a minor who has been admitted on the basis of a designated mental health professional petition for detention is evaluated by the facility providing seventy-two hour evaluation and treatment to determine the minor's condition and either admit or release the minor. If the minor is not approved for admission, the facility must make recommendations and referral for further care and treatment as necessary.

(11) Procedures for the examination and evaluation of a minor approved for inpatient admission to include:

(a) The needs to be served by placement in a chemical dependency facility;

(b) Restricting the right to associate or communicate with a parent(s); and

(c) Advising the minor of rights in accordance with chapter 71.34 RCW.

(12) Procedures to petition for fourteen-day commitment that are in accordance with RCW 71.34.730.

(13) Procedures for commitment hearing requirements and release from further inpatient treatment which may be subject to reasonable conditions, if appropriate, that are in accordance with RCW 71.34.740.

(14) Procedures for discharge and conditional release of a minor in accordance with RCW 71.34.770, provided that the professional person in charge gives the court written notice of the release within three days of the release. If the minor is on a one hundred eighty-day commitment, the children's long-term inpatient program (CLIP) administrator must also be notified.

(15) Procedures to ensure rights of a minor undergoing treatment and posting of such rights are in accordance with RCW 71.34.355, 71.34.620, and 71.34.370.

(16) Procedures for the release of a minor who is not accepted for admission or who is released by an inpatient evaluation and treatment facility that are in accordance with RCW 71.34.365.

(17) Procedures to ensure treatment of a minor and all information obtained through treatment under this chapter are disclosed only in accordance with RCW 71.34.340.

(18) Procedures to make court records and files available that are in accordance with RCW 71.34.335.

Procedures to release mental health services information only in accordance with RCW 71.34.345 and other applicable state and federal statutes.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.375, 71.34.500, 71.34.510, 71.34.520, 71.34.610, 71.34.620, 71.34.630, 71.34.640, 71.34.650, 71.34.750, and 2011 c 302. 12-21-133, § 388-865-0575, filed 10/24/12, effective 11/24/12. Statutory Authority: RCW 71.24.035, 71.05.560, and chapters 71.24 and 71.05 RCW. 06-17-114, § 388-865-0575, filed 8/18/06, effective 9/18/06. Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0575, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0576 Minor children ages thirteen through seventeen—Admission, treatment, and discharge without parental consent—Evaluation and treatment facility. (1) Under RCW 71.34.500, an evaluation and treatment facility may admit a minor child who is at least thirteen years of age and not older than seventeen years of age without the consent of the minor's parent(s) when:

(a) In the judgment of the professional person in charge of the facility, there is reason to believe that the minor is in need of inpatient treatment because of a mental disorder;

(b) The facility provides the type of evaluation and treatment needed by the minor;

(c) It is not feasible to treat the minor in a less restrictive setting or in the minor's home; and

(d) The minor gives written consent for the voluntary inpatient treatment.

(2) The evaluation and treatment facility must provide notice to the minor's parent(s) when the minor is voluntarily admitted. The notice must be in a form most likely to reach the minor's parent(s) within twenty-four hours of the minor's voluntary admission and advise the parent(s):

(a) That the minor has been admitted to inpatient treatment;

(b) Of the location and telephone number of the facility;

(c) Of the name of the professional staff member designated to provide the minor's treatment and discuss the minor's need for inpatient treatment; and

(d) Of the medical necessity for the minor's admission.

(3) The evaluation and treatment facility must:

(a) Review and document the minor's need for continued inpatient treatment at least every one hundred eighty days; and

(b) Obtain a renewal of the minor's written consent for the voluntary inpatient treatment at least every twelve calendar months.

(4) A minor admitted to an evaluation and treatment facility under RCW 71.34.500 may give notice of intent to leave at any time. The notice must be in writing, signed by the minor, and clearly state the minor intends to leave the facility.

(a) The facility staff member receiving the notice must:

(i) Immediately date it;

(ii) Record its existence in the minor's clinical record; and

(iii) Send a copy to the:

(A) Minor's attorney, if the minor has one;

(B) County-designated mental health professional; and

(C) Minor's parent(s).

(b) The facility must ensure a facility professional staff member discharges the minor from the facility by the second judicial day following receipt of the minor's notice of intent to leave.

(5) The evaluation and treatment facility must obtain parental consent, or authorization from a person who may consent on behalf of the minor under RCW 7.70.065, before admitting a minor child twelve years of age or younger.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.375, 71.34.500, 71.34.510, 71.34.520, 71.34.610, 71.34.620, 71.34.630, 71.34.640, 71.34.650, 71.34.750, and 2011 c 302. 12-21-133, § 388-865-0576, filed 10/24/12, effective 11/24/12.]

WAC 388-865-0578 Minor children seventeen years of age and younger—Admission, evaluation, and treatment without the minor's consent—Evaluation and treat-

ment facility. (1) Under RCW 71.34.600, an evaluation and treatment facility may admit, evaluate, and treat a minor child seventeen years of age or younger without the consent of the minor if the minor's parent(s) brings the minor to the facility.

(2) The evaluation and treatment facility must ensure a trained professional person (defined in RCW 71.05.020) evaluates the minor within twenty-four hours of the time the minor was brought to the facility.

(3) If the professional person determines the condition of the minor requires additional time for evaluation, the additional time must not be longer than seventy-two hours.

(4) If the evaluation and treatment facility holds the minor for treatment, the treatment must be limited to medically necessary treatment that the professional person has determined is needed to stabilize the minor's condition in order to complete the evaluation.

(5) The evaluation and treatment facility must:

(a) Notify the department within twenty-four hours of completing the minor's evaluation if the minor is held for inpatient treatment.

(b) Notify the minor being held for inpatient treatment of the right under RCW 71.34.620 to petition the superior court for release from the facility. The minor must be informed of this right before the department completes a review of the minor's admission and inpatient treatment (see subsection (7) of this section). If the minor is not released as a result of a petition for judicial review, the facility must release the minor no later than thirty days following the later of:

(i) The date of the department's determination under RCW 71.34.610; or

(ii) The date the petition is filed, unless a mental health professional initiates proceedings under Title 71 RCW.

(6) The minor's clinical record must show documentation that the department and the minor were notified as required under (a) and (b) of this subsection.

(7) One of the following must occur when the department conducts a review under RCW 71.34.610.

(a) If the department determines it is no longer medically necessary for the minor to receive inpatient treatment, the department notifies the minor's parent(s) and the facility. The facility must release the minor to the minor's parent(s) within twenty-four hours of receiving notice from the department.

(b) If the professional person in charge of the facility and the minor's parent(s) believe that it is medically necessary for the minor to remain in inpatient treatment, the facility must release the minor to the parent(s) on the second judicial day following the department's determination in order to allow the parent(s) time to file an at-risk youth petition under chapter 13.21A RCW.

(c) If the department determines it is medically necessary for the minor to receive outpatient treatment and if the minor declines to obtain such treatment, the refusal is grounds for the minor's parent(s) to file an at-risk youth petition under chapter 13.21A RCW.

(8) The evaluation and treatment facility must not discharge a minor admitted under RCW 71.34.600 based solely on the minor's request.

[Statutory Authority: RCW 71.05.560, 71.24.035, 71.34.375, 71.34.500, 71.34.510, 71.34.520, 71.34.610, 71.34.620, 71.34.630, 71.34.640, 71.34.650, 71.34.750, and 2011 c 302. 12-21-133, § 388-865-0578, filed 10/24/12, effective 11/24/12.]

WAC 388-865-0580 Child long-term inpatient treatment facilities. Child long-term inpatient treatment facilities must develop a written plan for assuring that services provided are appropriate to the developmental needs of children and youth, including:

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

(2) There must be a psychologist with documented evidence of skill and experience in working with children and youth available either on the clinical staff or by consultation, responsible for planning and reviewing psychological services and for developing a written set of guidelines for psychological services.

(3) There must be a registered nurse, with training and experience in working with psychiatrically impaired children and youth, on staff as a full-time or part-time employee who must be responsible for all nursing functions.

(4) There must be a social worker with experience in working with children and youth on staff as a full-time or part-time employee who must be responsible for social work functions and the integration of these functions into the individualized treatment plan.

(5) There must be an educational/vocational assessment of each resident with appropriate educational/vocational programs developed and implemented or assured on the basis of that assessment.

(6) There must be an occupational therapist available who has experience in working with psychiatrically impaired children and youth responsible for occupational therapy functions and the integration of these functions into treatment.

(7) There must be a recreational therapist available who has had experience in working with psychiatrically impaired children and youth responsible for the recreational therapy functions and the integration of these functions into treatment.

(8) Disciplinary policies and practices must be stated in writing:

(a) Discipline must be fair, reasonable, consistent and related to the behavior of the resident. Discipline, when needed, must be consistent with the individualized treatment plan;

(b) Abusive, cruel, hazardous, frightening or humiliating disciplinary practices must not be used. Seclusion and restraints must not be used as punitive measures. Corporal punishment must not be used;

(c) Disciplinary measures must be documented in the medical record.

(9) Residents must be protected from assault, abuse and neglect. Suspected or alleged incidents of nonaccidental injury, sexual abuse, assault, cruelty or neglect to a child must be reported to a law enforcement agency or to the department of social and health services and comply with chapter 26.44 RCW.

(10) Orientation material must be made available to facility personnel, clinical staff and/or consultants informing practitioners of their reporting responsibilities and requirements. Appropriate local police and department phone numbers must be available to personnel and staff.

(11) When suspected or alleged abuse is reported, the medical record must reflect the fact that an oral or written report has been made to the child protective services of

DSHS or to a law enforcement agency. This note must include the date and time that the report was made, the agency to which it was made and the signature of the person making the report. Contents of the report need not be included in the medical record.

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0580, filed 3/4/04, effective 4/4/04.]

WAC 388-865-0585 Petition for the right to possess a firearm. An adult is entitled to the restoration of the right to firearm possession when he or she no longer requires treatment or medication for a condition related to the involuntary commitment. This is described in RCW 9.41.047 (3)(a).

(1) an adult who wants his or her right to possess a firearm restored may petition the court that ordered involuntary treatment or the superior court of the county in which he or she lives for a restoration of the right to possess firearms. At a minimum, the petition must include:

(a) The fact, date, and place of involuntary treatment;

(b) The fact, date, and release from involuntary treatment;

(c) A certified copy of the most recent order of commitment with the findings and conclusions of law.

(2) The person must show the court that he/she no longer requires treatment or medication for the condition related to the commitment.

(3) If the court requests relevant information about the commitment or release to make a decision, the mental health professionals who participated in the evaluation and treatment must give the court that information.

[Statutory Authority: RCW 71.05.560, 71.34.800, and chapters 71.05 and 71.34 RCW. 04-07-014, § 388-865-0585, filed 3/4/04, effective 4/4/04.]

SECTION SIX—DEPARTMENT OF CORRECTIONS ACCESS TO CONFIDENTIAL MENTAL HEALTH INFORMATION

WAC 388-865-0600 Purpose. In order to enhance and facilitate the department of corrections' ability to carry out its responsibility of planning and ensuring community protection, mental health records and information, as defined in this section, that are otherwise confidential shall be released by any mental health service provider to the department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office as authorized in RCW 71.05.445 and 71.34.225. Department of corrections personnel must use records only for the stated purpose and must assure that records remain confidential and subject to the limitations on disclosure outlined in chapter 71.05 RCW, except as provided in RCW 72.09.585.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0600, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0610 Definitions. Relevant records and reports includes written documents obtained from other agencies or sources, often referred to as third-party documents, as well as documents produced by the agency receiving the request. Relevant records and reports do not include the documents restricted by either federal law or federal regulation related to treatment for alcoholism or drug dependency or the Health Insurance Portability and Accountability Act or state law related to sexually transmitted diseases, as outlined in RCW 71.05.445 and 71.34.225.

(1) **"Relevant records and reports"** means:

(a) Records and reports of inpatient treatment:

(i) Inpatient psychosocial assessment - Any initial, interval, or interim assessment usually completed by a person with a master's degree in social work (or equivalent) or equivalent document as established by the holders of the records and reports;

(ii) Inpatient intake assessment - The first assessment completed for an admission, usually completed by a psychiatrist or other physician or equivalent document as established by the holders of the records and reports;

(iii) Inpatient psychiatric assessment - Any initial, interim, or interval assessment usually completed by a psychiatrist (or professional determined to be equivalent) or equivalent document as established by the holders of the records and reports;

(iv) Inpatient discharge/release summary - Summary of a hospital stay usually completed by a psychiatrist (or professional determined to be equivalent) or equivalent document as established by the holders of the records and reports;

(v) Inpatient treatment plan - A document designed to guide multidisciplinary inpatient treatment or equivalent document as established by the holders of the records and reports;

(vi) Inpatient discharge and aftercare plan data base - A document designed to establish a plan of treatment and support following discharge from the inpatient setting or equivalent document as established by the holders of the records and reports.

(vii) Forensic discharge review - A report completed by a state hospital for individuals admitted for evaluation or treatment who have transferred from a correctional facility or is or has been under the supervision of the department of corrections.

(b) Records and reports of outpatient treatment:

(i) Outpatient intake evaluation - Any initial or intake evaluation or summary done by any mental health practitioner or case manager the purpose of which is to provide an initial clinical assessment in order to guide outpatient service delivery or equivalent document as established by the holders of the records and reports;

(ii) Outpatient periodic review - Any periodic update, summary, or review of treatment done by any mental health practitioner or case manager. This includes, but is not limited to: Documents indicating diagnostic change or update; annual or periodic psychiatric assessment, evaluation, update, summary, or review; annual or periodic treatment summary; concurrent review; individual service plan as required by WAC 388-865-0425 through 388-865-0430, or equivalent document as established by the holders of the records and reports;

(iii) Outpatient crisis plan - A document designed to guide intervention during a mental health crisis or decompensation or equivalent document as established by the holders of the records and reports;

(iv) Outpatient discharge or release summary - Summary of outpatient treatment completed by a mental health professional or case manager at the time of termination of outpa-

tient services or equivalent document as established by the holders of the records and reports;

(v) Outpatient treatment plan - A document designed to guide multidisciplinary outpatient treatment and support or equivalent document as established by the holders of the records and reports.

(c) Records and reports regarding providers and medications:

(i) Current medications and adverse reactions - A list of all known current medications prescribed by the licensed practitioner to the individual and a list of any known adverse reactions or allergies to medications or to environmental agents;

(ii) Name, address and telephone number of the case manager or primary clinician.

(d) Records and reports of other relevant treatment and evaluation:

(i) Psychological evaluation - A formal report, assessment, or evaluation based on psychological tests conducted by a psychologist;

(ii) Neuropsychological evaluation - A formal neuropsychological report, assessment, or evaluation based on neuropsychological tests conducted by a psychologist;

(iii) Educational assessment - A formal report, assessment, or evaluation of educational needs or equivalent document as established by the holders of the records and reports;

(iv) Functional assessment - A formal report, assessment, or evaluation of degree of functional independence. This may include but is not limited to: Occupational therapy evaluations, rehabilitative services data base activities assessment, residential level of care screening, problem severity scale, instruments used for functional assessment or equivalent document as established by the holders of the records and reports;

(v) Forensic evaluation - An evaluation or report conducted pursuant to chapter 10.77 RCW;

(vi) Offender/violence alert - A any documents pertaining to statutory obligations regarding dangerous or criminal behavior or to dangerous or criminal propensities. This includes, but is not limited to, formal documents specifically designed to track the need to provide or past provision of: Duty to warn, duty to report child/elder abuse, victim/witness notification, violent offender notification, and sexual/kidnaping offender notification per RCW 4.24.550, 10.77.205, 13.40.215, 13.40.217, 26.44.330, 71.05.120, 71.05.330, 71.05.340, 71.05.425, 71.09.140, and 74.34.035;

(vii) Risk assessment - Any tests or formal evaluations including department of corrections risk assessments administered or conducted as part of a formal violence or criminal risk assessment process that is not specifically addressed in any psychological evaluation or neuropsychological evaluation.

(e) Records and reports of legal status - Legal documents are documents filed with the court or produced by the court indicating current legal status or legal obligations including, but not limited to:

(i) Legal documents pertaining to chapter 71.05 RCW;

(ii) Legal documents pertaining to chapter 71.34 RCW;

(iii) Legal documents containing court findings pertaining to chapter 10.77 RCW;

(iv) Legal documents regarding guardianship of the person;

(v) Legal documents regarding durable power of attorney;

(vi) Legal or official documents regarding a protective payee;

(vii) Mental health advance directive.

(2) **"Relevant information"** means descriptions of a consumer's participation in, and response to, mental health treatment and services not available in a relevant record or report, including all statutorily mandated reporting or duty to warn notifications as identified in WAC 388-865-610 (1)(d)(vi), Offender/Violence alert, and all requests for evaluations for involuntary civil commitments under chapter 71.05 RCW. The information may be provided in verbal or written form at the discretion of the mental health service provider.

[Statutory Authority: RCW 71.05.445 and 71.05.390 as amended by 2004 c 166. 05-14-082, § 388-865-0610, filed 6/30/05, effective 7/31/05. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0610, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0620 Scope. Many records and reports are updated on a regular or as needed basis. The scope of the records and reports to be released to the department of corrections are dependent upon the reason for the request.

(1) For the purpose of a presentence investigation release only the most recently completed or received records of those completed or received within the twenty-four-month period prior to the date of the request; or

(2) For all other purposes including risk assessments release all versions of records and reports that were completed or received within the ten year period prior to the date of the request that are still available.

[Statutory Authority: RCW 71.05.445 and 71.05.390 as amended by 2004 c 166. 05-14-082, § 388-865-0620, filed 6/30/05, effective 7/31/05. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0620, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0630 Time frame. The mental health service provider shall provide the requested relevant records, reports and information to the authorized department of corrections person in a timely manner, according to the purpose of the request:

(1) Presentence investigation - Within seven calendar days of the receipt of the request. If some or all of the requested relevant records, reports and information are not available within that time period the mental health service provider shall notify the authorized department of corrections person prior to the end of the seven-day-period and provide the requested relevant records, reports or information within a mutually agreed to time period; or

(2) All other purposes - Within thirty calendar days of the receipt of the request. If some or all of the requested relevant records, reports and information are not available within that time period the mental health service provider shall notify the authorized department of corrections person prior to the end of the thirty-day period and provide the requested relevant records, reports or information within a mutually agreed to time period; or

(3) Emergent situation requests - When an offender subject has failed to report for department of corrections supervision or in an emergent situation that poses a significant risk to the public, the mental health provider shall upon request, release information related to mental health services delivered to the offender and, if known, information regarding the whereabouts of the offender. Requests if oral must be subsequently confirmed in writing the next working day, which includes e-mail or facsimile so long as the requesting person at the department of corrections is clearly defined. The request must specify the information being requested. Disclosure of the information requested does not require the consent of consumer.

(a) Information that can be released is limited to:

(i) A statement as to whether the offender is or is not being treated by the mental health services provider; and

(ii) Address or information about the location or whereabouts of the offender.

[Statutory Authority: RCW 71.05.445 and 71.05.390 as amended by 2004 c 166. 05-14-082, § 388-865-0630, filed 6/30/05, effective 7/31/05. Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0630, filed 5/31/01, effective 7/1/01.]

WAC 388-865-0640 Written requests. The written request for relevant records, reports and information shall include:

(1) Verification that the person for whom records, reports and information are being requested is under the authority of the department of corrections, per chapter 9.94A RCW, and the expiration date of that authority.

(2) Sufficient information to identify the person for whom records, reports and information are being requested including name and other identifying data.

(3) Specification as to which records and reports are being requested and the purpose for the request.

(4) Specification as to what relevant information is requested and the purpose for the request.

(5) Identification of the department of corrections person to whom the records, reports and information shall be sent, including the person's name, title and address.

(6) Name, title and signature of the requestor and date of the request.

[Statutory Authority: RCW 71.05.560, 71.24.035 (5)(c), 71.34.800, 9.41.-047, 43.20B.020, and 43.20B.335. 01-12-047, § 388-865-0640, filed 5/31/01, effective 7/1/01.]

SECTION SEVEN—CERTIFICATION OF CLUBHOUSES AND CRISIS STABILIZATION UNITS.

WAC 388-865-0700 Clubhouse certification. The mental health division certifies clubhouses under the provision of RCW 71.24.035. International center for clubhouse development certification is not a substitute for certification by the state of Washington.

[Statutory Authority: RCW 71.24.025, 71.24.035, and 2007 c 414. 08-14-080, § 388-865-0700, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0705 Definitions. The following definitions apply to clubhouse certification rules:

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

"Certification" - Official acknowledgement from the mental health division that an organization meets all state standards to operate as a clubhouse, and demonstrates that those standards have been implemented.

"Clubhouse" - 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.

"Recovery" - The process in which people are able to live, work, learn, and participate fully in their communities (RCW 71.24.025).

"Work-ordered day" - 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.

[Statutory Authority: RCW 71.24.025, 71.24.035, and 2007 c 414. 08-14-080, § 388-865-0705, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0710 Required clubhouse components. Required clubhouse components include all of the following:

(1) Voluntary member participation. Clubhouse members choose the way they use the clubhouse and the staff with whom they work. There are no agreements, contracts, schedules, or rules intended to enforce participation of members. All member participation is voluntary. Clubhouse policy and procedures must describe how members will have the opportunity to participate, based on their preferences, in the clubhouse.

(2) The work-ordered day.

(3) Activities, including:

(a) Personal advocacy;

(b) Help with securing entitlements;

(c) Information on safe, appropriate, and affordable housing;

(d) Information related to accessing medical, psychological, pharmacological and substance abuse services in the community;

(e) Outreach to members during periods of absence from the clubhouse and maintaining contact during periods of inpatient treatment;

(f) In-house educational programs that use the teaching and tutoring skills of members;

(g) Connecting members with adult education opportunities in the community;

(h) An active employment program that assists members to gain and maintain employment in:

(i) Full- or part-time competitive jobs in integrated settings developed in partnership with the member, the clubhouse, and the employer; and

(ii) Time-limited, part-time community jobs managed by the clubhouse with absentee coverage provided.

(i) An array of social and recreational opportunities.

(4) Operating at least thirty hours per week on a schedule that accommodates the needs of the members.

[Statutory Authority: RCW 71.24.025, 71.24.035, and 2007 c 414. 08-14-080, § 388-865-0710, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0715 Management and operational requirements. The requirements for managing and operating a clubhouse include all of the following:

(1) Members, staff, and ultimately the clubhouse director, are responsible for the operation of the clubhouse. The director must ensure opportunities for members and staff to be included in all aspects of clubhouse operation, including setting the direction of the clubhouse.

(2) Location in an area, when possible, where there is access to local transportation and, when access to public transportation is limited, facilitate alternatives.

(3) A distinct identity, including its own name, mailing address, and phone number.

(4) A separate entrance and appropriate signage that make the clubhouse clearly distinct, when co-located with another community agency.

(5) An independent board of directors capable of fulfilling the responsibilities of a not-for-profit board of directors, when free-standing.

(6) An administrative structure with sufficient authority to protect the autonomy and integrity of the clubhouse, when under the auspice of another agency.

(7) Services are timely, appropriate, accessible, and sensitive to all members.

(8) Members are not discriminated against on the basis of any status or individual characteristic that is protected by federal, state, or local law.

(9) Written proof of a current fire/safety inspection:

(a) Conducted of all premises owned, leased or rented by the clubhouse; and

(b) Performed by all required external authorities (e.g., State Fire Marshall, liability insurance carrier).

(10) All applicable state, county, and city business licenses.

(11) All required and current general liability, board and officers liability, and vehicle insurance.

(12) An identifiable clubhouse budget that includes:

(a) Tracking all income and expenditures for the clubhouse by revenue source;

(b) Quarterly reconciliation of accounts; and

(c) Compliance with all generally accepted accounting principles.

(13) Track member participation and daily attendance.

(14) Assist member in developing, documenting, and maintaining the member's recovery goals and providing monthly documentation of progress toward reaching them.

(a) Both member and staff must sign all such plans and documentation; or

(b) If a member does not sign, staff must document the reason.

(15) A mechanism to identify and implement needed changes to the clubhouse operations, performance, and administration, and to document the involvement of members in all aspects of the operation of the clubhouse.

(16) Evaluate staff performance by:

(a) Ensuring that paid employees:

(i) Are qualified for the position they hold, including any licenses or certifications; and

(ii) Have the education, experience and/or skills to perform the job requirements.

(b) Maintaining documentation that paid clubhouse staff:

(i) Have a completed Washington state patrol background check on file; and

(ii) Receive regular supervision and an annual performance evaluation.

[Statutory Authority: RCW 71.24.025, 71.24.035, and 2007 c 414. 08-14-080, § 388-865-0715, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0720 Certification process. The mental health division (MHD) grants certification based on compliance with the minimum standards set forth in this chapter.

(1) To be certified to provide clubhouse services, an organization must comply with the following:

(a) Meet all requirements for applicable city, county and state licenses and inspections.

(b) Complete and submit an application for certification to MHD.

(c) Successfully complete an on-site certification review by MHD to determine compliance with the minimum clubhouse standards, as set forth in this chapter.

(d) Initial applicants that can show that they have all organizational structures and written policies in place, but lack the performance history to demonstrate that they meet minimum standards, may be granted initial certification for up to one year. Successful completion of an on-site certification review is required prior to the expiration of initial certification.

(2) Upon certification, clubhouses will undergo periodic on-site certification reviews.

(a) The frequency of certification reviews is determined by the on-site review score as follows:

(i) A compliance score of ninety percent or above results in the next certification review occurring in three years;

(ii) A compliance score of eighty percent to eighty-nine percent results in the next certification review occurring in two years;

(iii) A compliance score of seventy percent to seventy-nine percent results in the next certification review occurring in one year; or

(iv) A compliance score below seventy percent results in a probationary certification.

(b) Any facet of an on-site review resulting in a compliance score below ninety percent requires a corrective action plan approved by MHD.

(3) Probationary certification may be issued by MHD if:

(a) A clubhouse fails to conform to applicable law, rules, regulations, or state minimum standards; or

(b) There is imminent risk to consumer health and safety;

(4) MHD may suspend or revoke a clubhouse's certification, or refuse to grant or renew a clubhouse's certification if a clubhouse fails to correct deficiencies as mutually agreed to in the corrective action plan with MHD.

(5) A clubhouse may appeal a certification decision by MHD.

(a) To appeal a decision, the clubhouse must submit a written application asking for an administrative hearing. An application must be submitted through a method that shows written proof of receipt to: Office of Administrative Hearings, P.O. Box 42489, Olympia, WA 98504-2489. An application must be received within twenty-eight calendar days of the date of the contested decision, and must include:

(i) The issue to be reviewed and the date the decision was made;

(ii) A specific statement of the issue and regulation involved;

(iii) The grounds for contesting the decision;

(iv) A copy of MHD's decision that is being contested; and

(v) The name, signature, and address of the clubhouse director.

(b) The hearing decision will be made according to the provisions of chapter 34.05 RCW and chapter 388-02 WAC.

[Statutory Authority: RCW 71.24.025, 71.24.035, and 2007 c 414. 08-14-080, § 388-865-0720, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0725 Employment-related services—Requirements. The following employment support activities must be offered to clubhouse members:

(1) Collaboration on creating, revising, and meeting individualized job and career goals.

(2) Information about how employment will affect income and benefits.

(3) Information on other rehabilitation and employment services, including but not limited to:

(a) The division of vocational rehabilitation;

(b) The state employment services;

(c) The business community;

(d) Job placement services within the community; and

(e) Community mental health agency-sponsored supported employment services.

(4) Assistance in locating employment opportunities which are consistent with the member's skills, goals, and interests.

(5) Assistance in developing a resume, conducting a job search, and interviewing.

(6) Assistance in:

(a) Applying for school and financial aid; and

(b) Tutoring and completing course work.

(7) Information regarding protections against employment discrimination provided by federal, state, and local laws and regulations, and assistance with asserting these rights, including securing professional advocacy.

[Statutory Authority: RCW 71.24.025, 71.24.035, and 2007 c 414. 08-14-080, § 388-865-0725, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0750 Crisis stabilization unit certification. (1) To obtain and maintain certification as a crisis stabilization unit (defined in RCW 71.05.020) under chapter 71.05 RCW, a facility must:

(a) Be licensed by the department of health;

(b) Ensure that the unit and its services are accessible to all persons, pursuant to federal, state, and local laws; and

(c) Successfully complete a provisional and annual on-site review by the mental health division to determine facility compliance with the minimum standards of this section and chapter 71.05 RCW.

(2) If a crisis stabilization unit is part of a jail, the unit must be located in an area of the building that is physically separate from the general population. "Physically separate" means:

(a) Out of sight and sound of the general population at all times;

(b) Located in an area with no foot traffic between other areas of the building, except in the case of emergency evacuation; and

(c) Has a secured entrance and exit between the unit and the rest of the facility.

[Statutory Authority: RCW 71.05.020, 71.24.035, and 2007 c 375. 08-14-079, § 388-865-0750, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0755 Standards for administration—Crisis stabilization units. A crisis stabilization unit must ensure that the following standards for administration are met:

(1) A description of the program, including age of persons to be served, length of stay, and services to be provided.

(2) An organizational structure that demonstrates clear lines of authority for administrative oversight and clinical supervision.

(3) The professional person in charge of administration of the unit is a mental health professional.

(4) A management plan to monitor, collect data and develop improvements to meet the requirements of this chapter.

(5) A policy management structure that establishes:

(a) Procedures for maintaining and protecting personal medical/clinical records consistent with chapter 70.02 RCW, "Medical records—Health care information access and disclosure," and the Health Insurance Portability and Accountability Act (HIPAA).

(b) Procedures for managing human resources to ensure that persons receive individualized evaluation and crisis stabilization services by adequate numbers of staff who are qualified and competent to carry out their assigned responsibilities.

(c) Procedures for ensuring a secure environment appropriate to the legal status of the person(s), and necessary to protect the public safety. "Secure" means having:

(i) All doors and windows leading to the outside locked at all times;

(ii) Visual monitoring, either by line-of-sight or camera as appropriate to the individual;

(iii) Adequate space to segregate violent or potentially violent persons from others;

(iv) The means to contact law enforcement immediately in the event of an elopement from the facility; and

(v) Adequate numbers of staff present at all times that are trained in facility security measures.

(d) Procedures for admitting persons needing crisis stabilization services seven days a week, twenty-four hours a day.

(e) Procedures to ensure that for persons who have been brought to the unit involuntarily by police, the stay is limited to twelve hours unless the individual has signed voluntarily into treatment.

(f) Procedures to ensure that within twelve hours of the time of arrival to the crisis stabilization unit, individuals who have been detained by a designated mental health professional or designated crisis responder under chapter 71.05 or 70.96B RCW are transferred to a certified evaluation and treatment facility.

(g) Procedures to assure appropriate and safe transportation of persons who are not approved for admission or detained for transfer to an evaluation and treatment facility, and if not in police custody, to their respective residence or other appropriate place.

(h) 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.

(i) Procedures to ensure access to emergency life-sustaining treatment, necessary medical treatment, and medication.

(j) Procedures to ensure the protection of personal and familial rights as described in WAC 388-865-0561 and chapter 71.05 RCW.

(k) Procedures to inventory and safeguard the personal property of the persons being detained.

(l) Procedures to ensure that a mental health professional (as defined in chapter 388-865 WAC) is on-site twenty-four hours a day, seven days a week.

(m) Procedures to ensure that a licensed physician is available for consultation to direct care staff and patients twenty-four hours a day, seven days a week.

(n) Procedures to provide warning to an identified individual and law enforcement when an individual has made a threat against an identified victim, in accordance with RCW 71.05.390(10).

(o) Procedures to ensure the rights of persons to make mental health advance directives.

(p) Procedures to establish unit protocols for responding to the provisions of the advanced directives consistent with RCW 71.32.150.

(q) Procedures to ensure that the following requirements are met when an individual is brought to the facility by a peace officer under RCW 71.05.153:

(i) The individual must be examined by a mental health professional (MHP) within three hours of arrival;

(ii) Within twelve hours of arrival, a designated mental health professional (DMHP) must determine if the individual meets detention criteria under chapter 71.05 RCW; and

(iii) If the facility releases the individual to the community, the facility must inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and has provided contact information to the facility.

[Statutory Authority: RCW 10.31.110, 71.05.153, 71.05.190, chapter 74.09 RCW, and 2011 c 305. 12-19-038, § 388-865-0755, filed 9/12/12, effective 10/13/12. Statutory Authority: RCW 71.05.020, 71.24.035, and 2007 c 375. 08-14-079, § 388-865-0755, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0760 Admission and intake evaluation. (1) For persons who have been brought to the unit involuntarily by police:

(a) The clinical record must contain:

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

(ii) The admission date and time; and

(iii) The date and time when the twelve hour involuntary detention period ends.

(b) The evaluation required in subsection (2)(c) of this section must be performed within three hours of arrival at the facility.

(2) The facility must document that each person has received timely evaluations to determine the nature of the disorder and the services necessary, including at a minimum:

(a) A health screening by an authorized health care provider as defined in WAC 246-337-005(22) to determine the health care needs of a person.

(b) An assessment for chemical dependency and/or a co-occurring mental health and substance abuse disorder, utilizing the global appraisal of individual needs - Short screener (GAIN-SS) or its successor.

(c) An evaluation by a mental health professional to include at a minimum:

(i) Mental status examination;

(ii) Assessment of risk of harm to self, others, or property;

(iii) Determination of whether to refer to a designated mental health professional (DMHP) or designated crisis responder (DCR) to initiate civil commitment proceedings.

(d) Documentation that an evaluation by a DMHP/DCR was performed within the required time period, the results of the evaluation, and the disposition of the person.

(e) Review of the person's current crisis plan, if applicable and available.

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

(3) If the mental health professional determines that the needs of a person would be better served by placement in a chemical dependency treatment facility then the person must be referred to an approved treatment program defined under chapter 70.96A RCW.

[Statutory Authority: RCW 71.05.020, 71.24.035, and 2007 c 375. 08-14-079, § 388-865-0760, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0765 Use of seclusion and restraint procedures within the crisis stabilization unit. (1) Persons have the right to be free from seclusion and restraint, including chemical restraint within the crisis stabilization unit.

(2) The use of restraints or seclusion must occur only when there is imminent danger to self or others and less restrictive measures have been determined to be ineffective to protect the person or others from harm. The reasons for the determination must be clearly documented in the clinical record.

(3) The crisis stabilization unit must develop policies and procedures to assure that restraint and seclusion are utilized only to the extent necessary to ensure the safety of patients and others, and in accordance with WAC 246-337-110, 246-322-180, 246-320-745(6), and 388-865-0545.

[Statutory Authority: RCW 71.05.020, 71.24.035, and 2007 c 375. 08-14-079, § 388-865-0765, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0770 Assessment and stabilization services—Documentation requirements. (1) For all persons admitted to the crisis stabilization unit, the clinical record must contain documentation of:

(a) Assessment and stabilization services provided by the appropriate staff;

(b) Coordination with the person's current treatment provider, if applicable;

(c) A plan for discharge, including a plan for follow up that includes:

(i) The name, address, and telephone number of the provider of follow-up services; and

(ii) The follow up appointment date and time, if known.

(2) For persons admitted to the crisis stabilization unit on a voluntary basis, a crisis stabilization plan developed collaboratively with the person within twenty-four hours of admission that includes:

(a) Strategies and interventions to resolve the crisis in the least restrictive manner possible;

(b) Language that is understandable to the person and/or members of the person's support system; and

(c) Measurable goals for progress toward resolving the crisis and returning to an optimal level of functioning.

[Statutory Authority: RCW 71.05.020, 71.24.035, and 2007 c 375. 08-14-079, § 388-865-0770, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0775 Qualification requirements for staff. The provider is responsible to ensure that staff and clinical supervisors are qualified for the positions they hold at the crisis stabilization unit.

(1) The provider must document that all staff have:

(a) A current job description.

(b) A current Washington state department of health license or registration as may be required for his/her position.

(c) Washington state patrol background checks for employees in contact with persons consistent with RCW 43.43.830.

(d) An annual performance evaluation.

(e) An individualized annual training plan, to include at minimum:

(i) The skills he or she needs for his/her job description and the population served;

(ii) Training regarding the least restrictive alternative options available in the community and how to access them;

(iii) Methods of person care;

(iv) Management of assaultive and self-destructive behaviors, including proper and safe use of seclusion and/or restraint procedures;

(v) Methods to ensure appropriate security of the facility; and

(vi) Requirements of chapters 71.05 and 71.34 RCW, this chapter, and protocols developed by the mental health division.

(vii) If contract staff is providing direct services, the facility must ensure compliance with the training requirements outlined in subsection (1)(i) through (vii) in this section.

(2) Clinical supervisors must meet the qualifications of mental health professionals as defined in WAC 388-865-0150.

[Statutory Authority: RCW 71.05.020, 71.24.035, and 2007 c 375. 08-14-079, § 388-865-0775, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0780 Posting of rights. The rights outlined in WAC 388-865-0561 must be prominently posted within the crisis stabilization unit and provided in writing to the person.

[Statutory Authority: RCW 71.05.020, 71.24.035, and 2007 c 375. 08-14-079, § 388-865-0780, filed 6/26/08, effective 7/27/08.]

WAC 388-865-0785 Rights related to antipsychotic medications. All persons have a right to make an informed decision regarding the use of antipsychotic medication consistent with the provisions of RCW 71.05.215 and 71.05.217. The crisis stabilization unit must develop and maintain a written protocol for the involuntary administration of antipsychotic medications, including the following requirements:

(1) The clinical record must document:

(a) The physician's attempt to obtain informed consent for antipsychotic medication;

(b) The reasons why any antipsychotic medication is administered over the person's objection or lack of consent.

(2) The physician may administer antipsychotic medications over a person's objections or lack of consent only when:

(a) An emergency exists. An emergency exists if:

(i) The person presents an imminent likelihood of serious harm to self or others;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and

(iii) In the opinion of the physician, the person's condition constitutes an emergency requiring that treatment be instituted before obtaining a concurring opinion by a second physician.

(b) There is a concurring opinion by a second physician for treatment up to thirty days.

[Statutory Authority: RCW 71.05.020, 71.24.035, and 2007 c 375. 08-14-079, § 388-865-0785, filed 6/26/08, effective 7/27/08.]

SECTION EIGHT—CERTIFICATION OF TRIAGE FACILITIES

WAC 388-865-0800 Triage facility—Definitions. The following definitions apply to this chapter:

"Designated mental health professional (DMHP)" See WAC 388-865-0150.

"Mental health professional (MHP)" See WAC 388-865-0150.

"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.

"Triage facility" is a short-term facility or a portion of a facility licensed by the department of health and certified by

the department of social and health services under RCW 71.24.035, which 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 of health residential treatment facility standards and may be structured as a voluntary and/or involuntary placement facility.

"Triage involuntary placement facility" is 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 mental health professional 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" is a triage facility wherein the individual may elect to leave the facility of their own accord, at anytime. A triage voluntary placement facility may only accept voluntary admissions.

"Short-term facility" is a facility licensed by the department of health and certified by the department of social and health services 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.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0800, filed 9/12/12, effective 10/13/12.]

WAC 388-865-0810 Triage facility—General requirements for certification. Under chapter 71.05 RCW, the department certifies facilities to provide triage services that assess and stabilize an individual, or determine the need for involuntary commitment. The department does not require a facility licensed by the department of health (DOH) that was providing assessment and stabilization services under chapter 71.05 RCW as of April, 22, 2011, to relicense or recertify under these rules. A request for an exemption must be made to DOH and the department.

(1) To obtain and maintain certification as a triage facility (defined in WAC 388-865-0800), a facility must:

(a) Be licensed by the department of health (DOH) as a residential treatment facility;

(b) Meet the requirements for voluntary admissions under this chapter;

(c) Meet the requirements for involuntary admissions under this chapter if it elects to operate and be certified as a triage involuntary placement facility;

(d) Ensure that the facility and its services are accessible to individuals with disabilities, as required by applicable federal, state, and local laws;

(e) Admit only individuals who are eighteen years of age and older; and

(f) Successfully complete a provisional and annual onsite review administered by the department's division of behavioral health and recovery (DBHR) and be determined by DBHR to be in compliance with the standards of this chapter and chapter 72.06 RCW.

(2) If a triage facility is collocated in another facility, there must be a physical separation. Physically separate means the triage facility is located in an area with no resident foot traffic between the triage facility and other areas of the building, except in case of emergencies.

(3) A triage facility must have, at a minimum:

(a) A written organizational structure that describes clear lines of authority of administrative oversight and clinical supervision.

(b) A designated person in charge of administration of the triage unit.

(c) A mental health professional (MHP) on-site twenty-four hours a day, seven days a week.

(d) A written program description that includes:

(i) Program goals;

(ii) Identification of service categories to be provided;

(iii) Length of stay criteria;

(iv) Identification of the ages or range of ages of individual populations to be served;

(v) A statement that only an individual eighteen years of age or older may be admitted to the triage facility; and

(vi) Any limitation or inability to serve or provide program services to an individual who:

(A) Requires acute medical services;

(B) Has limited mobility;

(C) Has limited physical capacity for self care; or

(D) Exhibits physical violence.

(e) A quality management plan to ensure the facility monitors, collects appropriate data, and develops improvements to meet the requirements of this chapter.

(f) Written procedures to ensure a secure and safe environment. Examples of these procedures are:

(i) Visual monitoring of the population environment by line of sight, mirrors or electronic means;

(ii) Having sufficient staff available twenty-four hours a day, seven days a week to meet the behavioral management needs of the current facility population; and

(iii) Having staff trained in facility security and behavioral management techniques.

(g) Written procedures to ensure that an individual is examined by an MHP within three hours of the individual's arrival at the facility.

(h) Written procedures to ensure that a designated mental health professional (DMHP) evaluates a voluntarily admitted individual for involuntary commitment when the individual's behavior warrants an evaluation.

(i) Written procedures that are in accordance with WAC 246-322-180, 246-337-110, 246-320-271, and 388-865-0545, if the triage facility declares any intent to provide seclusion and/or restraint.

(j) Written procedures to facilitate appropriate and safe transportation, if necessary, for an individual who is:

(i) Not being held for police custody and/or police pick up;

(ii) Denied admission to the triage facility; or

(iii) Detained for transfer to a certified evaluation and treatment facility.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0810, filed 9/12/12, effective 10/13/12.]

WAC 388-865-0820 Triage facility—Memo of understanding and other requirements. This section applies to a facility that elects to operate as a triage involuntary placement facility.

(1) Memo of understanding requirements. The facility must have a memo of understanding developed in consultation with local law enforcement agencies, which details the population that the facility has capacity to serve. The memo of understanding must include, at a minimum, a description of the facility's:

(a) Capacity to serve individuals with medication, medical and/or accommodation needs;

(b) Capacity to serve individuals with behavioral management needs;

(c) Ability to provide seclusion and/or restraint to individuals (see WAC 388-865-0830);

(d) Notification procedures for discharge of individuals (see WAC 388-865-0850); and

(e) Procedures for notifying the appropriate law enforcement agency of an individual's release, transfer, or hold for up to twelve hours to allow the peace officer to reclaim the individual.

(2) Individuals brought to a triage involuntary placement facility by a peace officer. The facility must have written procedures to assure the following:

(a) An individual detained by the designated mental health professional (DMHP) under chapter 71.05 RCW with a confirmed admission date to an evaluation and treatment facility, may remain at the triage facility until admitted to the evaluation and treatment facility.

(i) The individual may not be detained to the triage facility; and

(ii) An individual who agrees to a voluntary stay must provide a signature that documents the agreement.

(b) The individual is examined by a mental health professional (MHP) within three hours of the individual's arrival at the facility, and the examination includes an assessment to determine if a designated mental health professional (DMHP) evaluation is also required.

(c) If it is determined a DMHP evaluation is required, the DMHP must evaluate the individual within twelve hours of arrival. The DMHP determines whether the individual:

(i) Meets detention criteria under chapter 71.05 RCW; or

(ii) Agrees to accept voluntary admission. The individual must provide a signature agreeing to voluntary treatment.

(3) Individuals involuntarily admitted to a triage involuntary placement facility based on a peace officer-initiated twelve-hour hold. The facility must ensure each involuntarily admitted individual's clinical record:

(a) Documents the date and time the individual arrived at the facility and the date and time the examination by the mental health professional (MHP) occurred. The examination must occur within three hours of the individual's arrival to the facility (see WAC 388-865-0840(2)).

(b) Documents the peace officer's:

(i) Determination for cause to have the individual transported to the facility;

(ii) Request to be notified if the individual leaves the facility and how the peace officer is to be contacted, or documentation of other person(s) permitted to be contacted, such as the shift supervisor of the law enforcement agency or dispatcher; and

(iii) Request that the individual be held for the duration of the twelve hours to allow the peace officer sufficient time to return and make a determination as to whether or not to take the individual into custody.

(c) Contains a copy of the evaluation if the individual is determined by a designated mental health professional (DMHP) to meet detention criteria under chapter 71.05 RCW.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0820, filed 9/12/12, effective 10/13/12.]

WAC 388-865-0830 Triage facility—Seclusion and restraint. A triage facility must declare to the department any intention to provide seclusion and/or restraint (see WAC 388-865-0810 (3)(i)).

(1) The seclusion and/or restraint may only be used:

(a) To the extent necessary for the safety of the individual or others and in accordance with WAC 246-322-180 and 246-337-110, 246-320-271, and 388-865-0545; and

(b) When all less restrictive measures have failed.

(2) The facility must clearly document in the clinical record:

(a) The threat of imminent danger;

(b) All less restrictive measures that were tried and found to be ineffective; and

(c) A summary of each seclusion and/or restraint event, including a debriefing with staff members and the individual regarding how to prevent the occurrence of similar incidents in the future.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0830, filed 9/12/12, effective 10/13/12.]

WAC 388-865-0840 Triage facility—Admission, assessment, and clinical record requirements for voluntary and involuntary admissions. A triage facility must ensure the requirements in this section are met for each voluntary and involuntary admission. See WAC 388-865-0820(2) for additional requirements for an individual brought to a triage involuntary placement facility by a peace officer. See WAC 388-865-0820(3) for additional requirements for an individual involuntarily admitted to a triage involuntary placement facility based on a peace officer-initiated twelve-hour hold.

(1) Each individual must be assessed for chemical dependency and/or a cooccurring mental health and substance abuse disorder as measured by the global appraisal on individual need-short screen (GAIN-SS) as it existed on the effective date of this section, or such subsequent date consistent with the purposes of this section. The clinical record must contain the results of the assessment.

(2) Each individual must be assessed by a mental health professional (MHP) within three hours of the individual's arrival at the facility.

(a) The assessment must include, at a minimum:

(i) A brief history of mental health or substance abuse treatment; and

(ii) An assessment of risk of harm to self, others, or grave disability.

(b) The MHP must request:

(i) The names of treatment providers and the treatment provided; and

(ii) Emergency contact information.

(c) The MHP must document in the individual's clinical record:

(i) All the information obtained in (a) and (b) of this subsection.

(ii) Sufficient information to demonstrate medical necessity. Medical necessity is defined in the state plan as "A term for describing a requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions in the recipient that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause of physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. For the purpose of this chapter "course of treatment" may include mere observation, or where appropriate, no treatment at all."

(iii) Sufficient clinical information to justify a provisional diagnosis using criteria in the:

(A) Diagnostic and Statistical Manual of Mental Disorders (2000) (American Psychiatric Association (DSM-IV-TR), 2000), as it existed on the effective date of this section; then

(B) DSM-5 as it exists when published and released in 2013, consistent with the purposes of this section. Information regarding the publication date and release of the DSM-5 is posted on the American Psychiatric Association's public web site at www.DSM5.org.

(3) Each individual must receive a health care screening to determine the individual's health care needs.

(a) The health care screening instrument must be provided by a licensed health care provider (defined in WAC 246-337-005(22)). A licensed health care provider must be available to staff for staff consultation twenty-four hours a day, seven days a week.

(b) The individual's clinical record must contain the results of the health care screening.

(4) A qualified staff member (see WAC 388-865-0870) must coordinate with the individual's current treatment provider, if applicable, to assure continuity of care during admission and upon discharge.

(5) Each individual's clinical record must:

(a) Contain a statement regarding the individual circumstances and events that led to the individual's admission to the facility.

(b) Document the admission date and time.

(c) Contain the results of the health care screening required in (3) of this section.

(d) Document the date and time of a referral to a designated mental health professional (DMHP), if a referral was made.

(e) Document the date and time of release, or date and time the twelve-hour hold ended.

(f) Document any use of seclusion and/or restraint and include:

(i) Documentation that the use of seclusion and/or restraint occurred only due to the individual being an imminent danger to self or others; and

(ii) A description of the less restrictive measures that were tried and found to be ineffective.

(6) A triage facility that declares any intent to provide seclusion and/or restraint to an individual may do so only to the extent necessary for the safety of others and in accordance with WAC 246-322-180, 246-337-110, 246-320-271, and 388-865-0545. See also WAC 388-865-0830.

(7) A triage facility must document the efforts and services provided to meet the individual's triage stabilization plan.

(8) A triage facility must document the date, time, and reason an individual's admission status changed from involuntary to voluntary.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0840, filed 9/12/12, effective 10/13/12.]

WAC 388-865-0850 Triage facility—Triage stabilization plan. A triage stabilization plan must be developed for each individual voluntarily or involuntarily admitted to a triage facility for longer than twenty-four hours. For an individual admitted twenty-four hours or less, the facility must document the results of the assessment performed by a mental health professional (MHP) required under WAC 388-865-0840.

(1) The triage stabilization plan must:

(a) Be developed collaboratively with the individual within twenty-four hours of admission.

(b) Improve and/or resolve the individual's crisis in the least restrictive manner possible.

(c) Be written in a language that is understandable to the individual and/or the individual's support system if applicable.

(d) Be mindful of the individual's culture, life style, economic situation, and current mental and physical limitation.

(e) Have goals that are relevant to the presenting crisis and demonstrate how they impact the crisis by improving the individual's ability to function.

(f) Include any recommendation for treatment from the mental health professional (MHP) assessment provided with three hours of the individual's arrival at the facility.

(g) Include:

(i) The date and time the designated mental health professional (DMHP) evaluated the individual in accordance with the detention criteria under chapter 71.05 RCW; and

(ii) The DMHP's determination of whether the individual should be detained.

(2) The individual's clinical record must:

(a) Contain a copy of the triage stabilization plan;

(b) Contain charting that demonstrates how requirements of the individual's triage stabilization were met; and

(c) Document the services provided to the individual.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0850, filed 9/12/12, effective 10/13/12.]

WAC 388-865-0860 Triage facility—Discharge services for voluntary and involuntary admissions. A triage facility must:

(1) Provide discharge services for each individual:

(a) Voluntarily admitted to the facility; or

(b) Involuntarily admitted to the facility if the individual is not transferred to another facility.

(2) Coordinate with the individual's current treatment provider, if applicable, to transition the individual back to the provider.

(3) Develop a discharge plan and follow-up services from the triage facility that includes:

(a) The name, address, and telephone number of the provider;

(b) The designated contact person; and

(c) The appointment date and time for the follow-up services, if appropriate.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0860, filed 9/12/12, effective 10/13/12.]

WAC 388-865-0870 Triage facility—Staff requirements. A triage facility must ensure each staff member providing services to individuals is qualified to perform the duties within the scope of their position.

(1) The triage facility must document that each staff member has the following:

(a) A current job description.

(b) A current Washington state department of health license or credential as required for performing the job duties and meeting the specific responsibilities of the position.

(c) A Washington state patrol background check consistent with chapter 43.43 RCW.

(d) An annual review and evaluation of work performance.

(e) An individualized annual training plan that assures the employee is provided, at a minimum:

(i) Training relevant to the skills required for the job and the population served by the facility.

(ii) Adequate training regarding the least restrictive alternative options available in the community and how to access them.

(iii) Training that meets the requirements of this chapter and RCW 71.05.720.

(iv) Training that meets the requirements of RCW 71.05.705 if the triage facility is performing outreach services.

(f) Adequate training regarding methods of health care as defined in WAC 246-337-005(19).

(g) Adequate training regarding the proper and safe use of seclusion and/or restraint procedures if the triage facility employs these techniques. See WAC 388-865-0810 (3)(i) and 388-865-0830.

(2) The triage facility must ensure:

(a) Each clinical supervisor and each clinical staff member meets the qualifications of a mental health professional as defined in WAC 388-865-0800; and

(b) A clinical staff member who does not meet the qualifications for an MHP as defined in WAC 388-865-0800 is supervised by an MHP if the staff member provides direct services to individuals.

(c) A contracted staff member who provides direct services to individuals meets the requirements of this section.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0870, filed 9/12/12, effective 10/13/12.]

WAC 388-865-0880 Triage facility—Posting of individual rights. (1) A triage facility must ensure the individual rights outlined in WAC 388-865-0410 are:

(a) Prominently posted within the facility;

(b) Available to any individual on request; and

(c) Provided to each individual being assessed and admitted to the facility.

(2) A triage facility that has elected to operate as an involuntary placement facility must meet the requirements in subsection (1) of this section and, in addition, ensure the individual rights outlined in WAC 388-865-0561 are:

(a) Prominently posted within the facility; and

(b) Provided in writing to an individual during the admission process.

[Statutory Authority: RCW 71.05.020, 71.05.150, 71.05.153, 71.24.035, and 2011 c 148. 12-19-039, § 388-865-0880, filed 9/12/12, effective 10/13/12.]